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STATE OF NEW YORK

PUBLIC PAPERS

OF

ALFRED E. SMITH

GOVERNOR

1923

ALBANY
J. B. LYON COMPANY, PRINTERS
1924

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OATH OF OFFICE

STATE OF NEW YORK, }
COUNTY OF ALBANY, } ss.:

I, ALFRED E. SMITH, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New York, and that I will faithfully discharge the duties of the Office of Governor of the State of New York according to the best of my ability.

And I do further solemnly swear that I have not directly or indirectly paid, offered or promised to pay, contributed or offered or promised to contribute any money or other valuable things as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office and have not made any promise to influence the giving or withholding any such vote.

(Signed) ALFRED E. SMITH.

Sworn to before me this 31st day of
December, 1922.

JOHN W. HOGAN,
*Judge of the Court of Appeals,
State of New York.*

I

INAUGURATION

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I

INAUGURATION

Alfred E. Smith was inaugurated as Governor of the State of New York on the first day of January, the Oath of Office being administered to him by the newly elected Secretary of State, James A. Hamilton.

Inaugural Address

MR. CHAIRMAN, GOVERNOR MILLER, LADIES AND GENTLEMEN :

At the outset of my brief remarks I want to express my hearty gratitude to the citizens of Albany for the reception they gave me when I arrived home here, as it was said, on Thursday in the course of a blinding snowstorm. It seemed to me that nearly everybody was around to say hello and I appreciate it very much. I had no opportunity to thank them personally and probably never will have so I made up my mind to say it this morning.

I want to thank the members of the National Guard Regiment for the serenade they gave me last night, and for their performance this morning under the most trying circumstances. I also want to thank the Police Band which came all the way from New York and played at the Executive Mansion the Side Walks of New York, Rosy O'Grady and Gallagher and Sheehan. I want to thank all the officials who had to do with the preparation of this inauguration. I want to thank the outgoing Secretary of State. He has spent some weary hours back over a period of nearly three weeks in the preparation of all the details incident to a celebration of this kind, and I appreciate it.

I want to thank from the bottom of my heart the Governor himself for his uniform kindness and courtesy to me. During

his term I was a member of his official family. The first appointment that I received signed by any official came to me from Governor Miller. I want to say that there was not a very large salary attached to it, but it was interesting work and there was an opportunity to do something for the people of the great Metropolis, who seem to feel kindly toward me.

I am mindful of the responsibilities that are placed upon me when I take up the reins of government. I know exactly what it means. I have been through it, not alone as the Executive, but I have watched other Executives struggling with it during the twelve successive years that my voice was heard in this Chamber we are in today.

We have in this State, as we should have, party government under a representative democracy. The only vehicle for ascertaining the public will and then giving it force and effect afterwards is party government. I expect the full cooperation of the members of my party and also the members of the other party.

There is much to be done in the New Year because government, after all, like every other human agency, has its weaknesses and no matter to what standard you raise it you can always make it a little better. Experience and the knowledge which grows out of experience make it possible to keep advancing step by step.

We can better our great educational system throughout the State; we can improve our hospitals and our charitable institutions; we can keep up to the standard all our great public works in the State; we can maintain efficiency in every branch of the government and have square dealing as between the different groups throughout the State.

If by the experience of the past we can make some progress in 1923 and 1924 I shall indeed be very happy. In order to accomplish this, here, in this public place, today, I ask the cooperation of the Legislature. If they think I am right; I ask them to cooperate with me. If they think I am wrong, I ask them to confer with me. I want the assistance of the State officers elected with me. I ask it here from this platform today, and I want the sympathy and cooperation of

every citizen who believes with me that something can be done in 1923 and 1924.

Believing that I am to receive such cooperation, I here promise, from this platform today, through this assembly, to all the people of the State that with the help of Almighty God I will do my full share.

II

PROCLAMATIONS

[13]

II

PROCLAMATIONS

Law and Order Sunday

STATE OF NEW YORK — EXECUTIVE CHAMBER

The patriotic call of the Law and Order Union and the Allied Patriotic Societies for the designation of Sunday, January 28th, 1923, as "Law and Order Sunday," should strike a responsive chord in the heart of every American citizen.

We have that pride which the advancement of our country fully justifies and, while we have our minds on the problem of maintaining that liberty which we have long enjoyed, we should have a clear conception of the impressiveness and responsibility of citizenship, for with liberty must come the consideration of preserving it. This can only be accomplished by imposing upon ourselves standards of conduct which will indicate, above all things, love of country and that regard for its laws under which we are governed and which are made secure by the saving power of good citizenship.

Support of government is our heritage. We should be ever ready to bear its burdens, while we enjoy its benefits, remembering that every citizen has a voice in the work of governing and that it depends upon us whether our country shall be an institution under which we may expand and move forward. A lack of spirit in carrying out the fundamental principles of our Constitution and the Laws can only mean that we shall surely fail in those things which bring progressiveness and prosperity.

NOW THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby call upon the people of the State to observe fittingly Sunday, the twenty-eight of January, as

LAW AND ORDER SUNDAY

knowing that much good will come in calling to the attention of our citizens the full meaning of American equality, the advantages which we enjoy as American citizens under our system of government, and that we should respect the Constitution and the Laws under which we are governed.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this seventeenth
[L.S.] day of January in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Conservation Week

STATE OF NEW YORK — EXECUTIVE CHAMBER

The natural resources of New York State constitute its most important asset. Our forests and waterways, teeming with wild life, we should conserve, not alone for our own well being and enjoyment, but for the well being and enjoyment of those who come after us.

Upon the protection and enlargement of our forests depend the conservation of our streams and rivers, the maintenance of our wild life through the furnishing of suitable covers, the industrial prosperity of many communities dependent upon forest products, and the welfare of hundreds of thousands of people who use the forests for health and recreation.

To the proper prosecution of the work of caring for our natural resources, a better understanding of the subject is necessary.

Now, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby proclaim the week beginning Sunday, April 1, 1923, as

CONSERVATION WEEK

to be devoted to the dissemination of a better understanding of the benefits to be derived from the conservation of our natural resources and particularly to the protection of our forests from fire and the ravages of insect pests, and their replacement by the planting of state, county and community forests, and the reforestation of idle lands on farms.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this nineteenth
[L.S.] day of March in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor :

GEORGE R. VAN NAMEE,
Secretary to the Governor.

**Declaring Emergency Caused by Shortage of Fuel No
Longer Existing and Abolishing Office of Fuel
Administrator**

STATE OF NEW YORK — EXECUTIVE CHAMBER

In August, 1922, the Legislature declared that by reason of the shortage of fuel, an emergency existed affecting the public health and welfare and, therefore, requiring governmental regulation.

The office of State Fuel Administrator was created, to continue until by proclamation of the Governor the emergency requiring its creation should be declared no longer to exist.

I am informed by the Fuel Administrator that conditions are so far progressed toward their normal status that after April 1st the allotment basis of coal distribution will terminate and the normal flow of that commodity will be resumed.

We have reason to be thankful to Divine Providence that while the rigors of the winter have been unusually trying, industry and commerce have not had to be seriously interrupted.

We should be appreciative of the good judgment that has dominated the fuel administrator in the discharge of the duties of his difficult office, making the best of a troublesome situation, serving the poor and the sick and the needy first and dealing equitably and justly with all interests concerned.

Consumers should exercise patience during the brief period of return to the normal basis and not press dealers unreasonably while the allotment basis of fuel distribution is readjusting itself to the normal condition.

Since it should always be a policy of the State government not to regulate private business unnecessarily, and since the office of fuel administrator was created solely to meet an emergency and not as a continuous agency,

NOW, THEREFORE, In accordance with the law, and in order that the business of the sale and distribution of fuel may go forward in its accustomed channels, I, Alfred E. Smith, Governor of the State of New York, do hereby proclaim that the emergency requiring the office of fuel administrator no longer exists and the office of fuel administrator is hereby abolished on April 1st, 1923. The Fuel Administrator is hereby directed to terminate within thirty days after that date, all business and obligations incurred by that office.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this twenty-
[L.S.] seventh day of March in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Forest Protection Week

STATE OF NEW YORK — EXECUTIVE CHAMBER

WHEREAS, The preservation of our forests is of vital importance to the health and welfare of all the people of the state, and

WHEREAS, Forest fires, most of which are due to carelessness, are the greatest danger to our forests, and

WHEREAS, The people of New York State are now planting millions of trees annually in the movement to reforest idle land,

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby proclaim the week commencing April 22, 1923, as

FOREST PROTECTION WEEK

and I call upon all public officials of the State and the political divisions thereof, upon the press, teachers, and officers of sportsmen's organizations and commercial bodies to join in an effort to protect the forests by teaching all who go into them the utmost care in the use of fire.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this sixteenth
[L.S.] day of April in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Home Week

STATE OF NEW YORK — EXECUTIVE CHAMBER

In the midst of busy lives and the many duties and obligations resting on the young as well as the old, to pause to remember "Home" and what it means is a fitting observation of the birth of the song "Home Sweet Home." First sung a hundred years ago, it has rung throughout the world to express the love and longing born in every human breast for the haven of peace which contains so much of life's best inspiration, Home.

In a larger sense, Home typifies all those noble stirrings of the soul we call patriotism. The American Home is the foundation upon which the nation rests. It takes on deeper meaning as we pass through life from childhood to old age. It is appropriate that we set aside a brief time to remember its significance and to enforce its meaning.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby proclaim the week beginning May 14th as

HOME WEEK

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this third day
[L.S.] of May in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

National Hospital Day

STATE OF NEW YORK — EXECUTIVE CHAMBER

The anniversary of the birth of Florence Nightingale comes during the current week.

As our system of modern hospitals has largely resulted from the pioneer work of this remarkable woman, who devoted her life to the care of the sick, it has been suggested that the anniversary of her birth, Saturday, May 12, 1923, be designated as

NATIONAL HOSPITAL DAY

that the people of the State may honor the memory of Florence Nightingale and give special thought to our hospitals, both public and private, their problems, and the wonderful work they are doing in relieving human suffering and in the restoration of health.

It seems peculiarly fitting that the people of the State should, at this time, **direct their attention** to our hospitals and their work, inasmuch as there will be submitted to the people next November, a proposition to authorize a bond issue of fifty million dollars for the purpose of constructing necessary buildings for our State hospitals and institutions; thus, for the first time in our history, providing adequate and safe accommodations for these unfortunate wards of the State.

NOW, THEREFORE, I, Alfred E. Smith, Governor, do hereby call to the attention of the people of the State, the anniversary of the birth of Florence Nightingale and invite and urge them to give thought and consideration to the hospitals and institutions of the State in memory of one who devoted her life to the alleviation of human suffering. I recommend that hospitals generally in the State, keep open house on this anniversary day and that the public be invited to visit the hospitals and to consider means and methods whereby these institutions can be made to render still greater service to the cause of civilization and humanity.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this fifth
[L.S.] day of May in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Better Home Week

STATE OF NEW YORK — EXECUTIVE CHAMBER

A request has been made that the campaign now being waged in the several states by the "Better Homes in America" organization in the interest of better homes be brought to the attention of the people of New York in order to encourage the workers in their laudable efforts, for the purpose of stimulating interest in a movement which home lovers should

aid, and, in every possible manner, to instil in the minds of the people a desire to own their own homes.

Our people are home lovers and in the building of the hearth stones those ideals were formed which served to sustain the nation in its days of trial. It gave impetus to the strife for greater things which make for good citizenship and which form the very foundation of the exalted position that we hold among the powers of the world.

Every man has an inherent desire to own a home, to add to its comfort, to beautify it for those whom he holds dear and it is felt that everyone should give their endorsement of the campaign and further it as far as possible.

NOW, THEREFORE, I, Alfred E. Smith, Governor, do hereby designate the period beginning June 4th and ending June 10th as

BETTER HOME WEEK

and recommend that the people of New York give their earnest support to the campaign and that a study be made of one of the model homes which are to be fitted up by public spirited citizens in this State for inspection during the period mentioned.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city City of Albany this first
[L.S.] day of June in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Flag Day

STATE OF NEW YORK — EXECUTIVE CHAMBER

On June 14, 1923, will occur the anniversary of the adoption of the flag of our country. That flag which is the symbol of a free and assertive people expresses a glorious history

which will continue to inspire us to the performance of greater things in the interest of freedom, peace and prosperity.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do call upon the people of this State to celebrate this day, June 14, 1923, as

FLAG DAY

and direct that our National Emblem, which stands for the ideals of Americanism, be universally displayed on that day.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this ninth
[L.S.] day of June in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Death of Warren G. Harding
President of the United States

STATE OF NEW YORK — EXECUTIVE CHAMBER

The Nation with deep feeling of sorrow learns of the loss of its President, Warren Gamaliel Harding.

History records the fact that the best years of his life were devoted to the public service. He assumed his duties as Chief Executive of the Nation at a critical period in the country's history. He gave to the great office all his strength and energy, and his love of and devotion to his wife, as well as his sense of satisfaction in the just pride of his father in a son's achievement, will always remain a noble lesson and example for the present as well as the generations to come.

Almighty God is All Wise and All Just. He has showered His blessings upon this country without reserve and the

American people grieved at heart bow before Him to say "Thy will be done on earth as it is in Heaven." Let us ask that in His infinite mercy He may continue His watchful care over this great country; that He may bring solace and comfort to the bereaved wife and family, and that He may give wisdom and strength to Calvin Coolidge so suddenly called upon to assume a great responsibility.

As Chief Executive of the State of New York, I request that flags upon all public buildings, including arsenals and armories, be displayed at half mast up to and including the day that the mortal remains of the late President are laid at rest.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this third
[L. s.] day of August in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Warren G. Harding Day of Mourning and Prayer

STATE OF NEW YORK — EXECUTIVE CHAMBER

Calvin Coolidge, President of the United States, has by proclamation set forth Friday, August 10th, as a day of mourning and prayer throughout the United States.

In accordance therewith, I herewith call upon the people of our State to observe the day in worship and prayer as against all other duties and occupations, and I hereby call upon the heads of all State departments, bureaus, boards and commissions, to declare Friday, August 10th, a holiday, to

be dedicated to the purposes set forth in the proclamation of the President of the United States.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this 6th day
[L. s.] of August in the year of our Lord nineteen hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Lafayette-Marne Day

STATE OF NEW YORK — EXECUTIVE CHAMBER

The Lafayette Day National Committee requests New York State to join in the Nation-wide movement for the observance of Lafayette-Marne Day. We are a grateful people and should respond to the call to honor one who rendered such noble service to the cause of American independence. It is particularly fitting that in celebrating the anniversary of the birth of the "hero of two worlds" we give thought to the Battle of the Marne, renewing our pledge of comradeship and expressing the feeling of regard in which we hold our sister republic, our ally today as of old, and celebrate with her the day which gave such a wonderful example of steadfastness of principle.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby designate September 6th 1923, as

LAFAYETTE-MARNE DAY

and urge the people of this State to co-operate with the patriotic societies in a fitting observance of it and that the Stars

and Stripes and the tri-color of France be displayed on that day.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L. s.] ninth day of August in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

American Indian Day

STATE OF NEW YORK—EXECUTIVE CHAMBER

The attention of the people of the State is called to the observance of a day commemorative to the American aborigines who have contributed so much to the history of our Nation and are now enjoying the rights of Citizenship under our Constitutions and laws.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby designate Friday, September 28th, 1923, as

AMERICAN INDIAN DAY

and request the people of New York State to give serious thought to the accompanying proclamation as issued by the American Indian Order asking that organizations, societies and the schools of this State make provisions for appropriate exercises which will bring to mind the historical features of American Indian life in the hope of furthering the progress of these true Americans.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this thirty-
[L. s.] first day of August in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Requesting Aid for Earthquake Stricken People of Japan

STATE OF NEW YORK—EXECUTIVE CHAMBER

A great catastrophe has overtaken the people of Japan and the President of the United States has asked the people of our country to render aid and assistance in ameliorating the suffering which follows in the way of such a terrible disaster.

The people of the United States are always ready to listen to appeals from suffering humanity without regard to race or religion. I have no doubt that New York will respond generously to the needs of this occasion. Much is expected from our State as we have been greatly blessed. Confident that New York will continue its record of leadership in good works.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York as a simple reminder of duty to be performed, do call upon the people of the Empire State to act in accordance with the proclamation of the President, to extend relief liberally to the afflicted people of the Japanese Empire and to contribute generously through the Atlantic Division of the American Red Cross at 598 Madison Avenue, New York City.

GIVEN under my hand and the Privy Seal of the State at the Capitol in the city of Albany this fourth
[L. S.] day of September in the year of our Lord one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Anniversary of the Signing of the Federal Constitution

STATE OF NEW YORK—EXECUTIVE CHAMBER

September seventeenth will be the One Hundred and Thirty-sixth Anniversary of the signing of the Constitution of the United States.

All good citizens approve of our form of government and have demonstrated in a most thorough manner their willingness to uphold it in time of need.

We are a progressive nation and have advanced in importance among the nations of the world, and our progress is entirely due to the fact that our system of government is so firmly established.

The signing of the Constitution was the most important event in American History and it is a fitting tribute to our country to properly observe the anniversary of the event.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby designate Monday, September seventeenth, nineteen hundred and twenty-three, as

CONSTITUTION DAY

and request the people of New York State to observe the day as becomes the true American.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this fourteenth
[L. s.] day of September in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE.

Secretary to the Governor.

Urging Attendance at the National Dairy Exposition and the World's Dairy Congress

STATE OF NEW YORK—EXECUTIVE CHAMBER

WHEREAS, an exposition of an entirely educational value to our agricultural interests and for all of the people of the State of New York from a nutritional and Human Welfare interest, is to be held upon the State Fair Grounds near Syracuse and for the reason that this Exposition was invited to our

State officially by the officers of the State and by organized agricultural agencies of all of the Eastern States, and

FURTHER, because of the fact that the World's Dairy Congress invited to our country by the Congress of the United States is to be held in conjunction with this Exposition, I desire to bring to the attention of all the people of the State of New York the National Dairy Exposition and the World's Dairy Congress, to be held at Syracuse October 5th to 13th inclusive, and to urge that the people of their State avail themselves of the opportunity of attending these events that contain so much of value to our agricultural, commercial and human welfare progress.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L. s.] seventh day of September in the year of our Lord
one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Fire Prevention Day

STATE OF NEW YORK—EXECUTIVE CHAMBER

By virtue of the authority in me vested by the Constitution and the laws of this State, and in furtherance of a salutary custom heretofore observed, I have appointed and do hereby appoint Tuesday, the ninth day of October, in the current year of our Lord, one thousand nine hundred and twenty-three, as

FIRE PREVENTION DAY

Appalling disasters from fire, involving great loss of human life and destruction of vast values of property, admonish us that prevention, so far as human foresight can accomplish it, is wise public policy and a necessary safeguard for the lives and property of all citizens. As the dangers from this de-

structive force of the elements are naturally more pronounced in communities where compact conditions furnish fuel for fire, the co-operation of local authorities in cities, towns and villages is particularly desirable to recommend, suggest and carry out such plans and arrangements as will best accomplish the prevention desired.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, **earnestly** recommend that our people observe the day by a general cleaning up and removal of all rubbish, trash and waste, and a setting of their heating apparatus and chimneys in proper condition for winter use; that all public and private institutions, hotels, asylums, factories and theatres be looked over on that day; that local authorities give attention to the matter of better building regulations, fire protection and prevention, as well as adequate provision for fire fighting apparatus; that fire drills be held on that day in institutions, factories, private and parochial schools, and that the teachers instruct pupils through short talks and appropriate program on the dangers of fire and means of prevention.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this first day
[L. S.] of October in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Anniversary of the Birth of Theodore Roosevelt

STATE OF NEW YORK — EXECUTIVE CHAMBER

On October twenty-seventh will occur the sixty-fifth anniversary of the birth of Theodore Roosevelt, the American who as a citizen, a soldier, the Governor of this State and the President of the United States, did so much to instil in our hearts and minds the meaning of true Americanism.

His life should be an inspiration to the youths of this State and Nation and an example to all as it so fully indicates that perseverance and courage will overcome seemingly insurmountable barriers.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do call upon the people of this State to observe in a fitting manner the birthday of Theodore Roosevelt, whose birthplace in the city of New York has been preserved by the Woman's Roosevelt Memorial Association and which will be dedicated to the educational work among the children of America to which it is to be devoted.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this sixteenth
[L. S.] day of October in the year of our Lord one thousand
and nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Navy Day.

STATE OF NEW YORK — EXECUTIVE CHAMBER

The Navy League of the United States has made the request that the State of New York enter into and lend its support to the celebration of Navy Day, which has for its purpose the bringing to the minds of the people the importance of the Navy as an instrument for the guarantee of peace as well as a protection of our rights among the nations of the world.

We are a peaceful nation and as such should have a navy of the highest efficiency in order to assure the respect which is due us and which can only be accompanied by that peace which we have so long enjoyed.

That pride which every American has by birthright in the achievements of his country should be a guarantee of the aid

which will be given in the promotion of the interest in maintaining the first line of our National Defense and we should insist that our Navy have that strength permitted among nations.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby proclaim Saturday, October twenty-seventh, as

NAVY DAY

and ask that the fullest support be given to this eventful celebration.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this sixteenth
[L. S.] day of October in the year of our Lord one thousand
and nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Forget-Me-Not Day for the Relief of Disabled Veterans of the World War

STATE OF NEW YORK—EXECUTIVE CHAMBER

The Disabled American Veterans of the World War have established the custom of calling upon the public-spirited citizens of the State and Nation to support their organization in the beneficent work of caring for those who by reason of disability caused by military service are unable to resume the duties which they relinquished when called to arms.

We are a grateful people and should respond to this call in honoring those who, through love of country, were willing to cast aside the duties of citizenship in order to assure a continuation of peaceful pursuits among the nations.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do designate Saturday, November tenth, as

FORGET-ME-NOT DAY

and ask that all enter into the spirit of the occasion in a manner which will demonstrate the love and regard in which we hold our disabled veterans who did so much for us and are asking so little in return.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this seven-
[L. s.] teenth day of October in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

American Education Week

STATE OF NEW YORK—EXECUTIVE CHAMBER

WHEREAS, The President of the United States has proclaimed the week beginning on the eighteenth of November next as National Education Week and urged its observance throughout the country;

AND, WHEREAS, under our form of government, an efficient and generously supported system of education is necessary for the intelligent discharge of the duties and responsibilities of citizenship and for the preservation of our government and institutions;

AND, WHEREAS, it is highly desirable that the people in every community should set aside a period each year for a public visitation to their schools and should discuss on public platform, in press and pulpit, the great problems of better living and better serving, of the better education and training of youth, of more intelligent citizenship, of greater obedience to law and other problems to the solution of which efficient education has so much to contribute;

AND, WHEREAS, the observance of American Education Week in past years has tended to focus the attention of the

entire Nation upon education and its relation to individual happiness and to social and national welfare, and to strengthen public sentiment for the improvement of our schools and for the furtherance of our educational aims;

THEREFORE, I, Alfred E. Smith, Governor of the State of New York, recommend that the people of this State observe the week from November eighteenth to November twenty-fourth, inclusive, nineteen hundred and twenty-three, as

AMERICAN EDUCATION WEEK

and I invite schools and other public agencies and civic and religious bodies to co-operate and participate to secure its most general and helpful observance for the purpose of more liberally supporting and more effectively improving the educational facilities of the State.

Given under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L. s.] third day of October in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Suggesting the Appointment of Fair Price Coal Commissions in Cities of the State Where Mayor of City Decides Necessity

STATE OF NEW YORK—EXECUTIVE CHAMBER

To the Mayors of the Cities of the State of New York:

One year ago the State was confronted with the possibility of a coal shortage due to the cessation of activity on the part of coal miners at the mines. Just recently a threatened strike was averted by a settlement involving an increased cost of the mining and preparation of fuel for consumption.

Undoubtedly an adequate supply of fuel is necessary to the health and well-being of every community in our State. We

can have no idea at this time as to what the winter may bring forth, either in difficulty of transportation due to weather conditions or shortage for a reason unforeseen, but we do know that the terms of the settlement of the coal strike have increased the cost of production. Much has been said as to whether this additional cost can be absorbed. We are certain that every cost added to production is usually reflected in the cost to the ultimate consumer. Pending any determination of who should bear the burden of the extra cost, there is the additional problem confronting us of preventing as far as we can by the force of public opinion, the disposition on the part of some dealers to take advantage and to profiteer or exact a price beyond reasonable comparison with the necessary added cost of production, taking advantage of the fact that there seems to be established in the minds of the people an idea that there must be some increase.

A short time ago I communicated with the former Fuel Administrators throughout the various counties of the State and asked for information concerning supply and prices of coal. Complaint centers in the expectation of advanced prices that may be required to meet the existing economic conditions, rather than shortage of supply. The State is entirely right in the exercise of her police power when she moves to prevent shortage by State action. But no power exists within the Government today to regulate the price of coal. It may, however, be considered a proper function of government to put the searchlight of publicity upon those who would profiteer in the sale of any commodity affecting the health and welfare of the commonwealth.

Since the abolition of the former Fuel Administration there exists no agency that can officially deal with conditions that may arise in relation to fuel. As the situation now stands, I deem it advisable that there be created an unofficial agency for the purpose of focusing public attention upon corporations, firms or individuals who would take advantage of the present situation to exact an abnormal profit from trading in coal. After careful consideration of all the circumstances, it seems to me that the State might well establish a voluntary commission to be known as the Fair Price Coal Commission not em-

powered by law to perform any particular service, but charged by the heads of the government with the duty of rendering voluntary assistance to the consumers of coal during this winter season.

I am of the opinion that the best way to bring such an agency into existence is in co-operation with the Mayors of the different cities. Carrying that thought into effect I would suggest that where the occasion arises, the Mayor of any city of the State might upon request to the Governor bring about the creation of a Fair Price Coal Commission with jurisdiction to operate in the particularly locality or city from which the request comes. Such commission should be made up in my opinion of three members, one representing the citizens of that locality, one representing the coal merchants, both of whom should be selected by the Mayor, and a third member to be selected by the Governor. Inasmuch as no specific duties can be put upon them by statute, they might well be given the full power of unofficial assignment to investigate the whole business of transportation, delivery and sale of coal and make known the results of such investigations.

In the event that the force of public opinion be lacking to cure evident evils, the State will at least be in possession of information based upon facts which cannot be contraverted and which may be useful in laying before the lawmaking bodies of the State such evidence as may make necessary the exercise of the State's police power for the preservation of public health. Upon the request of the Mayor of any city of the State, I am prepared to name the two men of his suggestion plus one of my own, who will give this matter time and careful study without hope of recompense except the gratitude that flows from a great community for a service honestly and unselfishly performed.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L. S.] third day of October in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Red Cross Week

STATE OF NEW YORK — EXECUTIVE CHAMBER

To enroll again in the Red Cross and thus renew all those ties of service and friendship and the bonds which mutual suffering and helpfulness bring, is the most fitting observance of Armistice Day. Once more the Red Cross calls upon the people of our State to renew their allegiance to its merciful cause; and

WHEREAS, the continuance of their great work requires the loyal support and financial assistance of every citizen of our commonwealth;

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do proclaim the week beginning Armistice Day, November eleventh, to be known as

RED CROSS WEEK

and call upon the people of this State to respond promptly to the call.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this seventh
[L. S.] day of November in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Thanksgiving Day

STATE OF NEW YORK—EXECUTIVE CHAMBER

Each year it is the custom of the American Nation to set aside a day of Thanksgiving on which we may give thanks for the beneficence of the Almighty in that He has preserved our Nation in peace and our individual lives in safety and health.

For those blessings which the Divine Providence has showered upon the land and for our preservation from danger, suffering and misery, this great American people has reason more than ever to be thankful. With a remembrance of the fearful catastrophe which has overtaken one of our sister nations, it seems as if we had a special reason to thank God once more that another year has passed by and left us again with an abiding faith in the future of our country and a calm confidence in our destiny.

NOW, THEREFORE, to the end that we may give expression of our gratitude to Almighty God, I, Alfred E. Smith, Governor of the State of New York, do proclaim Thursday, the twenty-ninth day of November, in the year of our Lord, one thousand nine hundred and twenty-three, as

THANKSGIVING DAY

and request of all the people that they set aside that day and gather in their respective places of worship to offer to Almighty God, prayers of thanksgiving for blessings He has bestowed upon us and to ask of Him the continuance of His watchful care in order that our great country and our individual lives may be guided by His hand to a more satisfying height of service and inspiration and that we may have courage and judgment to make wise use of His gifts.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this seventh
[L. S.] day of November in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Sale of Christmas Seals

STATE OF NEW YORK—EXECUTIVE CHAMBER

Another Christmas season is at hand and with it has come the sixteenth annual sale of the Christmas Seals—the nation-wide custom through which the people of the United States contribute moral and financial support to the national, state and local societies that are engaged in the movement for the prevention, cure and control of tuberculosis.

The work of these societies is of great value to the public health authorities of our state and its local units—the counties, cities, towns and villages. They express the consensus of opinion of those interested in public health, and help to develop a wider public concern for health conservation. They carry on the newer activities in tuberculosis work until the practicability of such measures is demonstrated, public interest in them aroused, and the desire by the people to provide for their maintenance by taxation is developed. They assist in the focussing of public opinion upon the enforcement of laws and regulations, thus facilitating official health administration by the public authorities.

This is a winning fight! During the past twenty years of organized effort against this disease in our state, the death rate from pulmonary tuberculosis has been reduced forty-five per cent, and instead of standing first upon the list of the causes of death, as it did for many years, it now stands fourth.

This extremely impressive reduction in the death rate from what has been for centuries one of the greatest causes of death, lingering illness, tragical breaking up of families, dependence and destitution, while it may very properly be the subject of congratulation on the part of all public officers and private organizations that have had a share in bringing it about, constitutes, nevertheless, a challenge to all of us to bend our energies to the utmost in attacking the remaining part of our problem. It is our duty to press forward with uninterrupted vigor, sustained determination, and increased momentum.

THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby proclaim the month of December as

the period of the sixteenth annual Christmas Seal sale, and do hereby commend the purchase and use of the Seals as a ready, practical and effective means of participation by the public in this organized movement for saving the lives and promoting the health and physical vigor of the men, women and children of our Commonwealth.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this first day
[L.S.] of December in the year of our Lord one thousand
and nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Industrial Safety Day

STATE OF NEW YORK—EXECUTIVE CHAMBER

Preventable accidents in industrial establishments year by year waste thousands of lives. Only last year more than 1,300 persons lost their lives and nearly 300,000 were permanently or temporarily injured. The suffering and misery entailed by these accidents and by industrial diseases, not only for the individual but for the family, cannot be estimated. Frequently the incapacitation of the breadwinner leads to the disintegration of the entire family. The cost to industry in dollars and cents amounts to many millions of dollars which must be paid in compensation to the injured and their families. Over and above this is the terrible cost to the community in the needless handicap thus imposed on its citizens.

Intelligent co-operation between employers, workers and the public may prevent much of this loss. The State Department of Labor has entered upon a campaign of education to endeavor to cut down the toll of such accidents. The public mind should be focused upon these conditions in our industrial

system and upon preventing them. It would, therefore, be well to set aside a day in the year when all concerned therewith throughout the State—employers, wage earners and their families, and the public generally—may turn their thoughts to how best to make intelligent use of methods for the prevention of these accidents.

THEREFORE, I hereby proclaim January 16th, 1924, to be set aside as

INDUSTRIAL SAFETY DAY

and request that on that day, throughout the State, every industrial, civic, educational and social organization, cooperate with the State Department of Labor and participate in fitting observance of the day, calling attention to the great human waste that now occurs concentrating effort on educating the public to its menace and devising methods for preventing it.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this third
[L.S.] day of December in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Harding Memorial Week

STATE OF NEW YORK—EXECUTIVE CHAMBER

An association of citizens of the United States, including the President and his entire cabinet, has been incorporated for the purpose of erecting a suitable memorial to our late President, Warren Gamaliel Harding.

WHEREAS, I am confident that it is the desire of all good citizens of this State to assist in perpetuating the memory of

the man who has held the high office of President of the United States and commanded so universally the affection and respect of those for whom he labored and laid down his life, and in order to afford an opportunity for contributing to a lasting memorial to the late President,

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby proclaim for this purpose the week of December 9th to December 16th, 1923,

HARDING MEMORIAL WEEK

and further urge all religious, business, social, fraternal and civic bodies to commemorate our late President in a fitting manner at one of their regular or special services or meetings.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this first
[L.S.] day of December in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Calling Special Election to Fill Vacancy in the Office of Senator for the Eighteenth Senate District of the State of New York

STATE OF NEW YORK—EXECUTIVE CHAMBER

WHEREAS, A vacancy exists in the office of Senator for the Eighteenth Senate District of the State of New York, caused by the resignation on the third day of December, 1923, of Salvatore A. Cotillo, Senator from said district.

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, in pursuance of the provisions of section 42 of the Public Officers Law and the statute in such case made

and provided, do hereby order and proclaim that an election for State Senator in the place of the said Salvatore A. Cotillo be held in the Eighteenth Senate District on Tuesday, the eighth day of January, 1924, such election to be conducted in the mode prescribed by law for the election of State Senators.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this fourth
[L.S.] day of December in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Calling Special Election to Fill Vacancy in the Office of Supervisor of the Tenth Ward in the City of Binghamton

STATE OF NEW YORK—EXECUTIVE CHAMBER

WHEREAS, Due notice has been given that there was a failure to elect a Supervisor in the tenth ward in the city of Binghamton at the general election held November 6th, 1923, and

WHEREAS, It is provided by the law of this State that in such a case a special election shall be had,

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, in pursuance of the requirements of section 42 of the Public Officers Law, do hereby order and proclaim that a special election for supervisor to fill the vacancy caused by the failure to elect such official, be held in the tenth ward in the city of Binghamton, Broome county, on Tuesday, the twenty-ninth day of January, 1924, such election to be conducted in the manner prescribed by law for the election of supervisors.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this twenty-
[L.S.] sixth day of December in the year of our Lord
one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

III
MESSAGES TO THE LEGISLATURE

[45]

III

MESSAGES TO THE LEGISLATURE

Regular Session — Convened January 3 — Adjourned May 4

ANNUAL MESSAGE

STATE OF NEW YORK — EXECUTIVE CHAMBER

ALBANY, *January 3, 1923.*

To the Legislature:

We are beginning another year in the history of our great State — a history and a State of which we have abundant reason to be proud. Unquestionably representative democratic government is the best form known to man. But like every other human agency, frailties make themselves apparent in it as time progresses and experience teaches. Government unquestionably loses much of its force when it lacks the essential elements of responsiveness and responsibility to a well-defined and well-understood public will.

As a means of ascertaining that public will, we have had since our very beginning a government of parties, and definite party principles as well as definite party promises have from time to time been set forth in what we call the platform of the party. A platform, aside from its declaration of fundamental principles, is really a promise to or an agreement with the people that those pledges and promises set forth in the party declaration will in the event of success be carried out to the last degree.

Through the medium of party platforms and organized political parties, we ascertain the wishes and desires of the great majority. Certainly in the fall election just passed the people of our State spoke in no uncertain terms, and if party government is to remain successful we must believe that their

overwhelming vote meant that the principles and policies put forth by the successful party were to be carried out.

The future security of democratic government rests upon the obligation of parties, first, to ascertain the public will and after that to make it effective. The recent election cannot leave doubt in any one's mind that a demand was made by the great majority of the people of the State to enact a program of which they had full and complete knowledge, because it was debated for many weeks in all parts of the State.

To my mind, it means more than an obligation that rests solely upon one party. Partisan division, when against the best interests of the State, is not calculated to promote the public welfare or maintain confidence in democratic representative government.

Enlightened public opinion will no longer permit partisan advantage to be gained by either party through negative action. The people will form their estimates of the parties by their ability to point to constructive achievement. In the interest of the State and all its people, it is our duty to win laurels for our party by what we can do that is helpful to the millions of our citizens.

STATE FINANCES

I am submitting figures furnished to me by the State Comptroller showing the financial transactions of the State. They speak for themselves to people who can understand them, but the trouble with our financial statements is that they are prepared in technical and accounting terms. I will do the best I can to outline the State's financial condition in a way that will make it clear to the average citizen.

For the purposes of bookkeeping the State uses a year that begins the first of July and it is referred to as the fiscal year. On the first of July, 1922, the State owed to its bond holders \$267,008,000. Contributions have been made each year to the sinking fund which is to meet these bonds when due, and this fund now contains investments and cash amounting to \$81,171,115.21, leaving a balance of \$185,836,884.79 to be met by future yearly contributions. This amount is made up as follows:

Bonds issued:

For the improvement of the Canal.....	\$103,358,714	70
For State Highways.....	71,424,731	82
For purchase of land at Palisades Park....	3,954,956	02
For purchase of land in Forest Preserve...	6,754,482	25
For purchase of land, buildings and improve- ments at Saratoga Springs Reservation..	334,000	00
Temporary loan (forest fires).....	10,000	00
	<hr/>	
	\$185,836,884	79
	<hr/>	

On the first of July, 1922, the State had in its surplus fund which is really its bank account, \$41,261,294.18 to pay its running expenses in part. During the existing fiscal year, it is estimated by the State Comptroller that \$5,614,213.82 will be used from this account to help carry the running expenses of the State, so that it is estimated that at the end of this fiscal year which will be June 30, 1923, the State will have in its bank account \$35,647,080.36.

The Legislature last year appropriated in all \$149,363,752.67. This year departments have already sent requests to the Board of Estimate and Control for a sum amounting to \$159,529,-119.52, which is \$10,165,366.85 more than the sum required last year. To meet these requests, the Comptroller estimates the income of the State for the next fiscal year, beginning July, 1923, to be \$162,002,756.79. It must, however, be borne in mind that at best this is a guess and some of the sources of revenue from which this amount is expected may not come up to the estimates. It must be further borne in mind that there are a great many requirements of the State not included in these requests. I state this in this fashion in order that you may see the line of safety and keep the expenditures of the State within its income.

In these requests, you will find \$6,149,039.44 which is for deficiencies in the appropriations of last year and will be required to be appropriated to carry the State through the balance of this fiscal year. Deficiencies in appropriation arise

from three sources. First, the failure of the last Legislature to appropriate enough; second, they could arise from extraordinary happenings after the adjournment of the Legislature; thirdly, it might be that department heads would overdraw on their appropriations. For the last, there is no excuse and very little for the first, as the Legislature has facilities for informing itself of actual needs. The people of the State are entitled to and should receive a full return, dollar by dollar, for every dollar appropriated. At the same time, a policy that postpones payment of just debts and obligations for any purpose whatsoever is indefensible.

Provision should be made ahead of time for every known expense of the State, as in the instance of appropriations for indemnities for the slaughter of tubercular cattle. I am informed by the Department of Agriculture that the probable amount of indemnities now due to the owners of cattle slaughtered in 1922 will exceed the sum of \$1,600,000. The policy adopted by the last Legislature, to my way of thinking, was not right. It simply met deficiencies in former appropriations and made no appropriation for 1922 for this purpose. Consequently we are faced with a payment to be made immediately that should have been provided for this time a year ago. In making appropriations for this payment, provision should also be made for an amount to be estimated by the Department of Agriculture that will enable the State to meet promptly payments for cattle slaughtered, so that the State may not become indebted over long periods of time, as at present, to a class of its citizens that can least afford to do without their property.

I would suggest to the financial committees of your honorable body that you give careful and painstaking attention to all requests for appropriations. The needs of the State must all be met and waste and unnecessary undertakings must be checked. I will cooperate with you in this to the last degree, because I am satisfied that heavy taxation is adding to the high cost of living. The man at the top can pass the tax along but the ultimate consumer is helpless and is entitled to the best thought that we can give to this question of the cost of government.

REORGANIZATION OF THE STATE GOVERNMENT

Responsible to a great degree for the high cost of our State government, is the present form of its administration.

At the head of the specific recommendations to your honorable body, I place the constitutional amendments reorganizing the present ramshackle government of this State. These amendments call for, *first*, the reduction of the elective State officers to three; the Governor, the Lieutenant-Governor, and the Comptroller, who shall be an independent auditor without administrative functions, and for a four-year term for these three elective officers; *second*, for the reduction of state departments to nineteen, each representing a major administrative activity and for consolidation of administration and inspection of institutions; and *third*, for an executive budget system which will place upon the Governor the responsibility of initiating the budget. These amendments are based upon principles now thoroughly understood and almost universally recognized.

It is unnecessary to review at length the history of these amendments. No one with any understanding of public questions can doubt that popular opinion demands their passage, and rejects the substitutes which have been offered. These resolutions, in a modified and somewhat weakened form have passed one or both houses of the Legislature several times, but have never been allowed to come to the people for their decision. I now urge you as your first act of the session to pass these resolutions in the form in which they were originally presented in 1920, after having met the approval of the most distinguished constitutional lawyers of this State, irrespective of party. Some time must pass before these changes in the Constitution can be made effective, but they can at least be started on their way without further delay.

Pending the final passage of the constitutional amendments, I shall shortly recommend to your honorable body by special message, a well-considered plan of statutory consolidations of scattered departments such as can be brought about without constitutional revision and such as will make easier the transition to the structure of government contemplated in the reor-

ganization amendments. These statutory consolidations, in addition to abolishing certain unnecessary departments, will aim to consolidate as far as possible, the public works agencies of the State and transfer to the Departments of Education, Conservation, Health, Adjutant-General, Farms and Markets and to other existing major departments, the administration or budget supervision of smaller agencies now functioning without central plan or supervision.

Next in importance to the reorganization of the structure of the State government is the relation of the State to its local communities.

HOME RULE FOR CITIES

Probably no political principle has received so much statewide discussion as the question of a greater grant of power by the State to municipalities over such things as are wholly local. The cities of the State today and particularly New York City, find themselves restricted by what is really a charter of limitation. The phenomenal growth of the cities brings up constantly for settlement new problems that the city should be left free to determine without interference by the State.

The Legislature of 1921 passed an amendment to the Constitution to bring this about which is now pending before your honorable body for passage the second time. If, in your judgment, this amendment accomplishes the purpose it should promptly pass. If objections raised against it are of a minor nature it might be well to pass it any way and then start the legislative machinery again looking to further amendment that will cure any defect to which any real objection has been made. I make this suggestion having in mind the delay of the whole proposal that would occur through an entirely new initiation. Whatever action is taken on the present amendment at this session, I suggest for your consideration the initiation of a new amendment that would give to the communities of the State that full degree of local self-government which they are demanding and to which they are justly entitled. As this is a matter exclusively for the Legislature and the people themselves, I leave that matter for determination by your honorable body.

Illustrative of this whole principle has been our treatment of the subject of control of public utilities.

REGULATION OF PUBLIC UTILITIES AND TRANSIT CONSTRUCTION

About thirty years ago, the State, through a commission named by an act of the Legislature, provided for the construction of subway railroads in the City of New York.

In 1907, that commission was abolished by the enactment of the Public Service Commissions Law and its duties transferred to the Public Service Commission. The new Commission exercised supervision over construction and also regulatory powers as to character of service and certain supervision over the issuance of bonds or certificates of indebtedness of any kind.

In 1919, the Public Service Commission for what was known as the First District, which was New York City, was radically changed by separating regulatory powers from supervision of construction and provision was made for a single commissioner with regulatory powers and a single commissioner to supervise construction.

In 1921, the two single-headed commissions for New York were abolished and there was created in their place a single commission composed of three commissioners. This commission, known as the Transit Commission, was given power to propose routes and supervise new construction. In addition, it was given certain powers of regulation among which was the right to fix the fare, although the fixation of the fare had, prior to that time, been a matter of contract between the City of New York and the operating companies. Power was also lodged in the State to cancel contracts between municipalities and public utility corporations. This enabled the Transit Commission to nullify contracts under which the city by investment of its own funds had obtained the agreement of the railroad company to a five-cent fare. I need hardly tell you of the violent storm of opposition that came practically from a united press and from the great majority of the people when the State divested the municipality of power over her own contracts.

Rapid transit construction is purely a municipal enterprise and a municipality is not assisted by the State in its conduct of this activity in the slightest degree. In every other municipal activity the City of New York has always enjoyed a free hand to work out the will of her citizens through her own elected officials, as for example when the Legislature empowered the City of New York to bond itself for one hundred and fifty million dollars in order to provide an adequate water supply. The state granted an extraordinary power to the municipality in giving it the right to go outside of the city's corporate limits and condemn property for the purposes of a water supply. The construction of the Ashokan dam was probably the foremost piece of engineering work in this country. This great work was carried to a successful conclusion entirely under local authority.

The City of New York, without interference by the State, built all of its bridges, its great sewer systems and all of its public buildings. Naturally the people are unable to understand upon what theory the State undertakes to supervise the construction of its subways. They are wholly within the limits of the city. They are paid for entirely by the city and they do or will in time belong to the city and cannot be considered as anything other than a purely municipal enterprise.

The Public Service Commission of the State exercises regulatory powers over all public service corporations, except railroads within the City of New York. In the fifteen years that have passed since the organization of the two public service commissions, we have had fifty-four commissioners and the Public Service Commission has not yet succeeded in being much more than an object of political patronage. I think that I am within the truth when I say that the theory in itself never commanded a great amount of public respect. It makes little difference upon what you predicate it. The people in cities are unable to understand why the State interfered with the things that they believe to be local to themselves.

In the last reorganization of the State Public Service Commission in 1921, the people of the State found that the control that they exercise over their own public utilities through their

franchise agreements was taken away from them and vital portions of the contracts were nullified and the powers formerly exercised by the cities were transferred to the Public Service Commission. No defense can be made of this as it constitutes an absolute denial of self-government and home rule in the matter of contracts in all the cities of the State. The Public Service Commission is merely the agency of the State for the exercise of police power. There is no reason why the State should not select a municipality as its agent. To my mind we would get a better result.

In a democracy the people want the kind of government that suits the majority and not the kind that squares with some principle that has in all probability outgrown its usefulness.

The people are thinking more about their public affairs than they did some years ago and the State can make no mistake by selecting the elected officials of the cities to determine questions that have to do with the welfare of the municipality, such as proper regulation of its public utilities.

The people of the State, in the fundamental law, have granted to cities throughout the State exclusive power to pass upon any proposal to lay down railroad tracks. Where this power rests all other power should rest with it to the end that there may be no division of responsibility. It is obvious, therefore, that no State commission can take any action looking to the construction of additions to our subway system or railroads in other cities without the consent of the cities. No proposal by a State commission can result in actual construction unless that proposal receives the approval of the city. This divided power has resulted in complete deadlock, which can be broken only by placing the statutory powers in the municipality which already has the constitutional powers necessary for authorizing construction. You cannot give the constitutional powers inherent in the city to a State commission and, therefore, in my judgment, it is necessary to give the city the statutory powers also. Not only do I believe that all jurisdiction over the construction of rapid transit railroads should be given to the local authorities, but I also believe that they should have delegated to them the State's police power of control over all

public service corporations operating within their corporate limits.

There are certain public utilities that are not within the confines of a single city, as their operations are either between cities or State-wide. As to these utilities the State must retain its powers of control and regulation.

It may also be that some of the cities of the State may be unwilling to assume the obligations of regulation. We must not force it upon them, as that would again constitute an interference with home rule. We might, in such cases, say that should a city by resolution of its Common Council and, in the case of the City of New York, by its Board of Estimate and Apportionment, or after referendum to its people, petition the State to perform its regulatory service for it, the State should do it through its Public Service Commission. If a city decides to carry out its own regulation, it should be left free to bring into existence by local ordinance the board, commission, bureau or agency to perform this service.

In order to carry out this policy, the present Public Service Commission should be abolished and power given to the Governor to appoint not more than three commissioners to regulate such utilities as will not be regulated by the cities, either because they operate outside the corporate limits of a city or because the city may, by proper resolution, request the State to do it.

I recommend that in the preparation of the legislation to abolish the present Public Service Commission the power heretofore held by cities over the terms of their franchises be returned to them, where it belongs.

I further recommend that the Transit Commission in the City of New York be abolished and all its powers with regard to the laying out of routes and supervision of construction be transferred to the Board of Estimate and Apportionment, to be exercised by this body through any agency which it may select. Its regulatory powers should be restored to the public Service Commission Act which will contain the provision that a city may be the agent of the State for carrying out these powers unless it should, by proper resolution, request the State to relieve it of the duty.

MUNICIPAL OWNERSHIP OF PUBLIC UTILITIES

Directly in line with this program is the municipal ownership of public utilities.

Public utilities have become so essential to the life of our great cities that the cities themselves should be permitted to purchase, build, own or operate them when a municipality determines this to be in its best interest.

As far as transit is concerned the cities should be free to adopt any form of conveyance found suitable to their needs, whether it be railroads or omnibuses. This is not the introduction of any new and untried principle in government. New York City now owns railroads and owns and operates ferry boats. I am simply asking for an extension of the principle to all the utilities and for all other cities.

To the people themselves, as distinct from their organized communities, certain political rights and privileges of which they have been deprived, should be restored.

DIRECT PRIMARIES

In 1913 the State adopted the policy of direct nominations by vote of the enrolled members of the political parties for candidates of the parties for public office. This progressive step was in line with public thought on this subject throughout the country. To my mind it is a fundamental democratic policy with which no one can quarrel unless he is prepared to make the charge that the people who elect are incapable of nominating.

In 1921 the direct primary statute was compromised with and a return to the party convention system was brought into effect as to certain elected officials. You cannot compromise with a great principle. It is either right or wrong. The principle of full control of party nominations by the enrolled voters themselves I believe to be the proper principle and I therefore recommend that such suitable amendments be made to the Election Law as will return to the enrolled voters of the various political parties the full power to make their own nominations.

BI-PARTISAN ELECTION BOARDS

Furthermore all laws providing for boards, charged with the duty of administering the Election Law, the Constitution provides, shall secure equal representation thereon of the two dominant political parties. The very evident intent of this constitutional provision is that, in each and every county, elections shall be administered by bi-partisan boards. The Legislature of 1911 made provision to that effect, but since then, various Legislatures have emasculated the law piece-meal, by providing that, in certain counties, a single election commissioner may administer the Election Law, thus creating in such counties a partisan control of elections.

I recommend that you pass promptly a measure which will give effect to the constitutional requirement and guarantee fair elections in every county of the State.

CORRUPT PRACTICE ACT

Some years ago the State adopted the policy of requiring political parties through their various committees, as well as candidates for public office, to file with the Secretary of State a statement of the amounts contributed to campaign funds and by whom contributed, as well as a statement in detail of expenses, in order that the people of the State might be able to form their opinion as to whether a candidate has incurred obligations in return for large campaign contributions. This particular knowledge after election is useless.

I, therefore, recommend that the Corrupt Practice Act be amended to provide for the filing of statements before election by all candidates of all campaign contributions made either directly to themselves or to any political committees supporting their candidacy.

POPULAR CONSTITUTIONAL INITIATIVE

The privilege of amending the Constitution is a highly prized political right, but at present the State Constitution has been too far removed from the people.

The present method provided in the State Constitution for its amendment places too much restriction upon the people

themselves in amending their organic law. The Constitution should be kept as close as possible to the rank and file of the people. They make that law and the limitation that permits only the Legislature to initiate amendments is inadequate. The present system amounts to a referendum. Under safeguards such as will properly register a popular demand there should be an amendment to the State Constitution that will permit the people themselves to initiate as well as pass upon amendments to the fundamental law.

Distinct from political rights and privileges which these recommendations just preceding, aim to restore are individual rights which we must consider and protect.

UNJUST DISCRIMINATION AGAINST WOMEN IN THE LAW

In recent years there has been a great awakening of the public mind to the place occupied by women in business as well as in public life. We cannot stand still after having admitted them to the full rights of citizenship. Their place in business they have gained for themselves by their ability. Progress requires that all unjust discriminations against women be removed by specific amendments to existing statutes, retaining as is necessary for the protection of the health and well-being of the State those statutes that protect them in the home and in industry.

RESTRICTION OF FREEDOM OF THOUGHT, OPINION AND EDUCATION; MOTION PICTURE CENSORSHIP

Recent legislation in our own State has aimed at serious restriction of personal liberty.

For several years we have been drifting away from the fundamental ideal of the Declaration of Independence and the document that was intended to give it force and vigor, the "Constitution of the United States." Throughout the declaration there are related the abuses to which the American people were subjected by tyrannical government. The imposition of taxes without consent of the people, interference with trade and commerce and with the personal liberty of the citizens were set forth as the principal reasons for a declaration of a

fundamental principle of government that has burned its way through the literature of the world right up to our own time. Inquisitions, spy systems, rules and regulations for personal conduct not prompted by the Ten Commandments, are an unnecessary interference with the freedom of a people.

It has frequently been said that the best government is the one which governs the least. In monarchies, the people exist for the government. In the free democracy of the United States, the government exists for the people, and its every move should be the expression of their free will.

Throughout the Constitution of the United States there was sounded the note set forth in the preamble which said that the purpose of the document was "to secure the blessings of liberty to ourselves and our posterity." In our own State, the opening sentence of our Constitution is the expression of our gratitude to Almighty God for our freedom, and in order to secure its blessings we establish a Constitution.

As all crimes are predicated upon sins, no persons should be held guilty of sin under the law until they can be convicted of a crime. The Bill of Rights throws every possible safeguard around the individual and the fullest possible presumption of innocence is constitutionally established until the contrary is proven beyond reasonable doubt. The danger to the future of our liberty lies in our apparent willingness at times to compromise with this principle. Once this avenue is opened nobody can, with any degree of certainty, predict where it may lead.

Censorship is not in keeping with our ideas of liberty and of freedom of worship or freedom of speech. The people of the State themselves have declared that every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge liberty of speech or of the press. This fundamental principle has equal application to all methods of expression.

The spoken drama has always had its place as an influence to educate. In many countries it is sustained as a national enterprise. In early days it was used to give expression to biblical history. Nobody will dispute that the invention of

moving pictures opened the way for a new avenue of great education as well as of amusement. We have looked too lightly on guarantees of freedom of speech and of the press when we select from among our citizens three people who before the fact have the power to declare what is and what is not a violation of the statutes enacted for the protection of the morality of our people.

Carrying this policy to its logical conclusion, everything written or spoken or taught might be subject to a censorship by public authority. We have abundant law in the State to jail the man who outrages public decency. If we have not, enact it. And we have jails enough to hold him after his conviction. I believe that the enactment of a statute providing for censorship of the moving pictures was a step away from that liberty which the Constitution guaranteed and it should be repealed.

I am firm in my belief that the law passed at the last session of the Legislature which requires the teachers of our public schools to submit to a loyalty test is a direct violation of the letter and spirit of the laws of our State, unless you are prepared to take the stand that this great army of useful public servants is incapable of being responsible for the abuse of their rights. No reason that I can find justifies the existence of this law upon our statute books. It is wrong in principle. It is a violation of the spirit of our Constitution and it is an unwarranted interference with freedom of opinion—one of the foundation stones of democratic government. Throughout the history of the world where people have allowed the government to think for them, the government has been unsuccessful. Part of the success of America lies in the undisputed fact that the government permits the people to think for themselves.

Equally vicious is the law, also passed at the last session, which provides for licensing and supervising private schools. While ostensibly for the purpose of safeguarding the institutions and traditions of our country, its real effect is to weaken them by abridging the fundamental right of the people to enjoy full liberty in the domain of idea and speech. We have now

abundant law to check them when the law of the land is transgressed. Liberty and the pursuit of happiness cannot be said to be safeguarded in a community that delegates to anybody the absolute power to prohibit the teaching of any subject of which they may disapprove.

Interference with personal liberty, censorship of thought, word, act or teaching, abridgment in any way of the freedom of speech and of the press by the government itself, unquestionably encourages, if in fact it does not promote, intolerance and bigotry in the minds of the few directed against the many. If we will obey that simple but important divine commandment, "Love thy neighbor as thyself," the State could have nothing but success — failure would be impossible.

I recommend to your earnest consideration the immediate repeal of the statutes spoken of in this section of my message.

EIGHTEENTH AMENDMENT

In 1919, the Legislature on behalf of our State ratified the Eighteenth Amendment to the Federal Constitution after refusing a proposal to submit the question to the people as suggested by me. Its passage in the Senate was by a very narrow margin and under circumstances that would suggest that the Senate's action was not in keeping with the wishes of a majority of the people. The question of ratification did not appear in either of the party platforms, but nevertheless a party caucus brought into line men whose views as well as the views of their constituents were well known to be opposed to ratification by our State.

In 1920 by a substantial majority, the Senate and the Assembly enacted the so-called 2.75 per cent beer bill upon the theory that the Eighteenth Amendment to the Constitution gave to the States concurrent power to define an intoxicant. This act was rendered inoperative by a subsequent decision of the United States Supreme Court which in effect said that concurrent power referred to in the Constitutional Amendment meant power to enforce and that the so-called Volstead Act was binding upon the States as to alcoholic content. If democratic representative government means what we all say it

means, surely the history in our own State does not indicate that a majority of the people are in sympathy with the existing Volstead Act.

The decision of the United States Supreme Court renders the State helpless to legalize light wines and beer of a greater alcoholic content than the one-half of one per cent now set forth in the so-called Volstead Act. Therefore, if the people of this State are to get relief from this situation they must look to the National Congress. The House of Representatives and the Senate are the only legislative bodies in the country that can amend the Volstead Act.

I, therefore, recommend to you that you pass resolutions at the earliest possible moment requesting, on behalf of the State, that the legislative machinery at Washington be set in motion immediately to bring about an amendment that will permit light wines and beer under the careful restrictions set forth in the New York State Act of 1920.

In view of the history set forth above on the question of ratifying the Eighteenth Amendment, I recommend the initiation by this State of a proposed amendment to the Federal Constitution requiring submission to the people instead of to the Legislature of all future proposals to amend the Federal Constitution.

COMMISSION TO INVESTIGATE DEFECTS IN THE LAW AND ITS ADMINISTRATION

Guarding the legal rights of the individual when he is seeking justice is an obligation as important as safeguarding his political and personal rights.

The man who needs to resort to the processes of law often complains of technical requirements and rules of evidence, some of which in the light of today may be unjust and have outlived the useful purpose they may have served in the past. This dissatisfaction is not limited to the layman but it is being voiced by the leading members of the Bar, by Bar Associations and by judges of our highest courts.

It has been brought to my attention that some of our judges have publicly stated that a number of our rules of law are out-

worn and defective and should either be modified or entirely eliminated. It is necessary that in this respect we keep pace with our own growth and with modern conceptions of right and justice. The law of the State, civil and criminal, should be brought into harmony with existing social, economic and business conditions.

That this subject may be studied and the facts brought forth, I recommend an honorary commission to serve without pay, to be brought into existence by statute providing for representation from the office of the Attorney General, the Senate, the Assembly and a suitable number to be named by the Governor to study this question and report back to the Legislature of 1924.

LABOR AND WORKMEN'S COMPENSATION

Foremost among our pledges to the people have been our promises dealing with the human side of government.

We have boasted and rightfully so that this State has, in all probability the most enlightened labor code in the United States. To the Labor Department, we have committed the enforcement of it, but the best labor code is useless to the State unless adequate provision is made for its administration. It will be my policy to have this great department of the State government administered with the maximum of efficiency and usefulness.

The Workmen's Compensation Law imposes a quasi-judicial function on the department and it should be impartially administered. Delay defeats the ends of justice; prompt payment of claims to injured workmen is a necessity. More equitable compensation should be granted. There should also be a reduction of the non-compensated waiting period after accident. There should be removed from the law any existing provision that makes possible or results in direct settlements of any kind between injured men and women and insurance companies. This is indefensible in view of the history of this Act and never results in anything but loss to the injured man or woman.

The Bureau of Women in Industry should be restored in the Labor Department and organized upon an efficient basis. This bureau was placed in the Labor Department for the reason that the State cannot overlook measures to promote the health and welfare of half a million women and children employed in factories and mercantile establishments. No benefit accrues to the State from having a bureau in name only. Unless it functions and unless there can flow from it something of substantial benefit, it might as well be abolished.

I firmly believe that the State should declare by law that the labor of a human being is not a commodity or an article of commerce and I further feel that no injunction should be issued in labor disputes without notice and a hearing first to establish the facts. The present system of granting temporary injunctions in labor disputes, solely on affidavits and without the taking of testimony to ascertain the facts, is not one calculated to bring about substantial justice in these difficult cases. In this connection, we should endeavor to establish more adequate machinery within the Labor Department for conciliation and mediation in industrial disputes. My experience with the Labor Board that I created during my last administration has convinced me that compulsion and injunction are not calculated to bring about peace and harmony in industrial relations.

I make brief mention of this in my first message in order that your committees may begin a study of this whole situation and I will, at a later date, communicate with your honorable body at length with regard to all of the activities of the Labor Department.

MINIMUM WAGE

For many years we have discussed putting into effect a minimum wage for women and minors in industry established by means of determinations to be reached by a board composed of representatives of the interests involved, the public, the workers and the employers. For years this subject has been agitated and discussed in this State. Experience has shown that we cannot rely upon voluntary recognition of a just minimum wage. There are still many industries in the

State where wages for women are far below a decency standard, let alone one that means comfort. All of the arguments made against minimum wage legislation are deceptive.

The State owes it to her women and children to help industry realize that they must be paid a wage that will keep them in health and comfort if we are to conserve one of our greatest resources. I have confidence in the wisdom and sound judgment of our business men and I am satisfied that they will make no objection to an agency of the State that will provide them with information which will permit them when they become convinced, to remove the industrial injustice that grows out of wages so low that the health of the worker must in time be impaired.

I sincerely believe that the majority of the members of the Legislature are in accord now with my views on this subject and I hope that there will be no delay in putting into effect a law embodying in the Department of Labor an unpaid Minimum Wage Board for the establishment of a minimum wage for women and minors in industry.

EIGHT-HOUR DAY

Long ago the State of New York adopted the policy of limiting the hours of labor for women and minors in industry. This was predicated upon the theory that the State should exercise its police power for the protection of their health and welfare. The eight-hour day is well recognized where organized groups are in a position to enforce it. It seems to me that the State is behind the time in withholding from the great army of women and minors employed in industry the benefits that grow from the shorter work day which they are unable to secure because of a lack of organized effort.

I therefore recommend an amendment to the existing statutes which will provide for the eight-hour day for women and children engaged in industry.

PUBLIC HEALTH

Activity by the State for the preservation of public health can never be too broad. While we may congratulate ourselves

upon the steadily diminishing death rate, we must not permit ourselves to slow down for a single moment any effort that the State should put forth for the protection of the public health and the prevention of disease. Too many people are prone to the idea that health is the concern of the individual. I believe it to be the business of the State because the State itself cannot be healthier than its people.

Because it affects the preparation of the appropriation bill, I have but one concrete suggestion to make at this time as I intend to take up in a message at a later date the whole subject of public health. I venture the suggestion now that the State, as a matter of sound policy, should take advantage of the federal appropriations made by the Congress of the United States under what is known as "The Sheppard-Towner Act to promote the welfare and hygiene of maternity and infancy." New York State pays a large portion of the federal taxes and should take full advantage of appropriations thus made. Whether one quarrels with the principle or not makes little difference. The place to voice any objection to the principle is in the Halls of Congress. The policy having been once adopted, the State of New York should avail itself of the offer of the government. Certainly nobody can complain about the purpose for which the appropriation was made.

STATE HOSPITALS, MENTAL DEFICIENCY AND INSTITUTIONAL CARE

Some years ago the State undertook, as a State function, the care of the mentally disturbed portion of our population. There are approximately forty thousand people today in the State hospitals for the insane. The treatment that they are to receive from the State depends entirely upon the interpretation that you put on the word "care." If we are simply to lock them in and herd them together until their distress of mind is relieved by death, that is one method. If, on the other hand, we are to care for them properly, put forth our best efforts to provide for their needs medically and otherwise, make the very best effort that we can to effect a cure, provide for their physical comfort, we must make such ap-

appropriations for maintenance as will secure the best kind of help in adequate numbers.

Overcrowding in these institutions is one of the most serious problems confronting the State. I believe that the people want to do everything they can for these unfortunate wards; that the great majority of the people feel that this is an obligation that they should discharge to the very limit of their ability. I, therefore, bespeak your careful attention to proper appropriations for maintenance and a careful study of proposals to add to the existing structures as well as to build new ones of proven necessity in order that we may cure the evil of overcrowding and not overlook the necessity for attendants in adequate number.

Related to this in a way is the problem of the mentally deficient. On the theory that a stitch in time saves nine, the dollar spent by the State at the right time may save countless dollars later on in the handling of this important problem. With proper housing under proper environment and with proper teaching, the mentally deficient may be made useful members of society to the extent that their condition will permit. Work might well be begun in the schools in extending the system of special classes successfully started, where it is possible at first hand to detect any defective mentality and where in the primary stages some form of training might be useful.

If the State neglects mental defectives, it may save some money, but it will pay twice as much in the long run in provision for more costly forms of custodial care. In fact, this general principle of proper standards might well be applied to all of our State institutions which care for any group of our dependent wards. They should all be kept at the highest possible standard. If we do this work, let us do it well. If we do it only half way, we lose as far as results are concerned on even the half that we undertake.

I will be glad to cooperate with your committees and the officials in charge of our various institutions in working out a program that properly meets these needs.

PRISON REFORM

Probably no department of our government is as far behind the times as our administration of State prisons. The policy of merely locking the prisoner behind the bars and letting him stay there until the expiration of his term is not one in keeping with the interest of the State itself. The prisoner is, after all, a human being and the State should make every effort to restore him to society as a useful member of the community against which he offended. New York State should lead in constructive prison reform.

In my previous term I appointed a committee of public spirited citizens interested in and familiar with prison problems. As a public service, without compensation, they made a thorough survey of our State prisons and submitted an exhaustive report which has been printed and copies of which are available to the members of your honorable body. The report was received too late in my former administration to permit full consideration of the facts which it developed and the recommendations which it made. Substantially nothing has been done in the intervening period toward the improvement of our prison system. I believe it to be to the interest of the State that forward steps be taken in our treatment of this important subject.

PUBLIC EDUCATION

It would be idle for me to waste time emphasizing the necessity for maintaining our educational institutions at the very highest possible standard. Education is the one thing in the government that must always be one hundred per cent. We may fall down in our programs for public betterment or public improvements, but time lost in the development of education can never be made up. We must zealously labor that the State may give to her children the best possible education known.

Every proposal that strengthens this activity of the government should have your most careful consideration. The State should continue its policy of liberal appropriations to localities so that the salaries of the school teachers may be maintained

at a figure commensurate with the great work that they are doing for the State.

The fundamental law of the State places upon the Legislature the duty of providing a system of free common schools for all the children of the State, but we must go further and make provision for adequate night schools and for vocational training.

I would suggest that the Committee on Education of both the Senate and the Assembly have an immediate conference with the Superintendent of Education and the Regents of the University looking toward more adequate school facilities in our rural communities. I am satisfied that the children in these sections of the State are not getting from the State the same opportunities for education that are accorded to the children in the cities. We owe it to all children alike and we should try to give it.

It might well be said that the inadequate school facilities now in farming communities present an additional reason why people leave the farm and move to the cities. Every father and mother instinctively do their best to give their children all that the State affords in education. It is the safeguard of the State and of the Nation. Anybody desiring to have a proper understanding of the necessity for an education need only talk to the man who was denied it.

I will be pleased to be called in by your committees at any time that you desire to take up these matters with the Regents of the University.

CHILD WELFARE

In 1920, at my suggestion, the Legislature created a commission to examine into laws relating to children and child welfare. It made a preliminary report to the Legislature in March, 1922, and the Legislature enacted several of its recommendations. Several important ones, however, were not enacted and these have mainly to do with the Boards of Child Welfare.

In 1915, the State changed its policy towards children whose mothers were unable to support them after the death

of their father. Prior to that time, appropriations of public money had been made for their support in institutions. It requires no words of mine to tell you that the proper person to take care of a child is its own mother, and the State, realizing this principle, created boards of child welfare as the agencies for paying to the widowed mother, when she is a fit and proper person, the money that was, prior to that time, given for institutional care.

From among the recommendations made in the previous report of the Commission and not acted upon, I would specifically suggest that you amend the law by permitting the granting of allowances where it is proven to the satisfaction of the boards of child welfare that the father is entirely incapacitated by any physical or mental ailment. The Child Welfare Act, as it stands on the statute books, does not allow a community to make provision for the children of aliens. A child born in the United States is a citizen by birthright and should be cared for. The statute should, therefore, be amended to provide that any child born in this country whose mother has resided here for at least five years should come within the scope of the law. I would further recommend that the statute be amended to permit an allowance to be made to a lawful guardian when the mother dies.

Although the Commission does not, in its preliminary report, recommend it, I leave for your careful consideration the thought I have in my mind that the State should make some direct contribution to boards of child welfare to encourage the localities to make liberal appropriations for this desirable purpose.

I regard the care of children as the protection of one of the State's greatest assets. Let us do what we can to remove the notion that seems to exist in the minds even of some of our officials that this work on the part of the State is charity and let us bend our energy toward educating our people up to the realization that it is a duty of the State. We should particularly feel for helpless children. They make an appeal that is heard by the hardest heart. It may cost money, but the State that cares for them will have an investment bear-

ing interest in human dividends, that will make it win in the long run. Moreover, it will have the blessing of Almighty God Himself and no amount of money can buy that.

HOUSING

In 1919, I called the attention of the Legislature to the shortage of housing and high rental costs evident throughout the State. As an after condition of war, every community found itself without sufficient housing facilities for its population. In communities where the growth of population is rapid, the situation was acute. With the exception of the permissive tax exemption laws recommended by me in the Fall of 1920 and enacted at an extraordinary session of the Legislature, there have been no substantial and thoroughgoing legislative enactments tending to promote the construction of new houses.

In view of the failure up to date by law to provide some substantial remedy for this crisis whose effects are still felt, I am of the belief that the Emergency Rent Laws should be continued until it can be demonstrated to your honorable body that the situation has been relieved.

A committee of your honorable body will report to you on the subject, I am informed, at an early date. Whatever legislation you may enact as a result of that report, there should be a State policy upon this important subject looking to the future. To my mind the State will have before it for many years the problem of more and better housing for our industrial population and the related questions of city planning for home and industrial locations, unless you provide means for ascertaining a forward-looking solution. Nothing is more important than proper homes in suitable localities for the promotion of the welfare of our various communities.

STATE INCOME TAX

To meet the rising cost in government due to the war conditions growing out of it and to the loss of certain large sources of revenue by an unwarranted interference with the liberties of our people, the State was confronted with the

necessity for levying directly against the people a tax upon their annual incomes. The heaviest burden of taxation after all falls upon the shoulders of those least able to bear it. The small salaried citizen is unable to pass the burden to anybody else and must meet it directly. That he may not be deprived of a full opportunity to use all of his earnings for the education and the promotion of health and safety of his family, I suggest for your consideration that incomes of less than five thousand dollars per annum be exempted from State taxation.

STATE BONUS TO SOLDIERS

In 1920 by legislative enactment, there was submitted to the people of the State a proposal to issue bonds to pay a bonus to the soldiers from our State who offered themselves to the nation in her hour of peril. By a popular majority, the proposal to bond the State was approved at the election in the Fall of 1920. Subsequent to that time, our Court of Appeals decided that the issuance of bonds for the purpose set forth in the enactment was contrary to the Constitution. The decisive vote of the people in 1920, to my mind, indicates their desire to use the funds of the State as a bonus to her soldiers. They should be given the free opportunity to determine whether or not they desire an amendment to their Constitution that will remove the obstacle that stood in the way of carrying out the popular will as expressed in the election of 1920.

I therefore recommend the second passage by your honorable body of an amendment to the Constitution that will make legal and proper the determination of the people as expressed by themselves to reward the soldiers accepted by the Federal Government from our State to maintain the majesty and the dignity of our great Republic.

STATE MILITARY FORCES

The State has abundant reason to be proud of its National Guard and its Naval Militia. They constitute the State's first line of defense and patriotic citizens who give all their time and energy in the performance of military duty should be en-

couraged by proposals urged to benefit this important arm of the State service.

Any conception of the State as serving the people which omitted consideration for our basic industry of agriculture and the great public works which will contribute to the solution of our problems of transportation and cost of living would be unsound.

AGRICULTURE

The present condition of agriculture in our State is such that it requires relief at the earliest possible moment. Since the harvest of 1920, conditions have grown steadily worse until from every section of the State reports are coming that farmers by the hundreds are giving up farming and many are selling out and flocking to the industrial centers already overcrowded.

It is neither the time nor the place to recite the various reasons advanced for these conditions. It is sufficient for our purposes to know that they exist. The last Legislature appropriated for the promotion of agriculture \$5,282,642.24. I am satisfied that the State is not getting the return from its expenditure that it should and I am satisfied further that the State is not doing all it can to promote the interests of the farming communities and this is due to the inability of the Department of Farms and Markets to function properly under its present organization. Its whole structure stands on a false foundation.

A council as a regency over this department has been maintained by the State long enough to demonstrate that it is useless. To the Department of Farms and Markets there has been granted by the Legislature broad powers but results are lacking. There should be at the head of the Department of Farms and Markets a single commissioner charged with the responsibility for this department. Too much of its efforts at present are devoted to the exercise of the police powers of the State. While that is undoubtedly necessary, it should not practically be the entire purpose of the department. The great difference between the earnings of the farmer and the cost of

the produce in the markets is something that requires the vigorous attention of the State. There is something wrong in a commonwealth that permits so much of the produce of the land to rot on the farm while such high prices are being obtained for what is being sold in the cities.

Our agricultural educational and experimental institutions should receive the generous support of the State, especially secondary schools of agriculture and the short courses in our agricultural colleges so that the boys who are to be the future farmers may have the advantage of the very latest technical advice and assistance in the shortest possible time.

The farm bureau agents should assist all the farmers in a county without confining their activities to the members of the various farm bureaus associations and should be enabled to make their ordinary office routine work secondary to their actual service to the farmer on his farm and should have assistance to the end that they may continue a close contact with and render more timely service to the farmers who are struggling with the present conditions.

In another part of my message, I have referred to the necessity for prompt payment of claims for the destruction of tubercular cattle by the State. A vigorous Department of Agriculture would not have permitted this condition to exist without having called it forcibly to the attention of the public.

In the section of my message dealing with education, I have referred to our rural school problem which also presses the farmers of the State for solution.

I am convinced from past experience that before we talk further of remedies we must repair the agency. It is senseless to clothe a department with great power and great authority only to find that it seems unable to function or make use of it. A vigorous handling of this problem requires that the present Council and present Department of Farms and Markets be abolished and in their place there be created a single Commissioner of Farms and Markets to whom should be granted ample power to reorganize the department and bring to his aid the best brains and ability that the State can secure.

After I have time to confer with all the interests affected, I will communicate further with your honorable body.

IMPROVED STATE HIGHWAYS

76 3,1923
The value to the State of an improved system of highways has been fully demonstrated. They meet the needs of modern transportation. They aid the farmer and they make a contribution to the reduction of the cost of living. Highway construction should be carried on without interruption and should be designed of sufficient strength to accommodate modern heavy traffic. The durable type of road is the cheapest in the long run and the cost of upkeep is much less than that required for the maintenance of the poorer kind.

It has not been demonstrated to my satisfaction that highways should be built from the proceeds of bond issues. In any circumstances they are of so temporary a nature that the cost of building and maintaining them should be met from the current revenues of the State. Experience has shown that many roads in the State have been rebuilt three or four times during the life of the bonds that were issued for their original construction.

It is clear that we must attack the problem of highway accidents immediately and in a comprehensive way. The toll of lives which the operation of motor vehicles is taking is each year becoming greater; for 1922 the returns are not yet complete, but for the entire State the grand total will be very near 2,000 deaths. The injuries, often most serious, due to such operation are many times as numerous.

In the last two years the State has passed some helpful legislation on this subject but it has not been comprehensive. In addition, by scattering all over the State the licensing and control over motor vehicles, not only has the expense been greatly increased, but the prevention of accidents through central control has been entirely lost.

Greater latitude should be given to the Commissioner of Highways in the laying out of proposed roads. It is an engineering and an administrative problem and in this way only can there be brought forth a unified system that will serve the

best interests of all the people of the State rather than those of a favored locality.

I shall also recommend to you as soon as it can be prepared a plan for the more rapid elimination of railroad grade crossings which have been the cause of many preventable accidents.

PORT DEVELOPMENT

It is a matter for congratulation to note the recognition that has been accorded to the importance of a speedy and adequate development of the Port of New York. But that importance which affects our national as well as our local well-being carries a responsibility the significance of which we should all recognize.

Creation of an interstate body to develop the Port of New York by treaty between New York and New Jersey was in itself a recognition that this work was too involved to be compassed by any individual agency having either waterfront or trunk line rail facilities within the metropolitan area. The very fact that nine out of twelve trunk line railroads, supplying food and clothing for the City of New York and its surrounding area and carrying their products to all parts of the country, terminate on one side of the broad river and that the principal ocean-going facilities are located on the other, creates at once a problem of interstate commerce which requires interstate solution.

Studies of the conditions by the bodies successively appointed by the Legislatures of New York and New Jersey to appraise the situation and apply the remedy disclose that the root of the port's difficulty, the cause of its costly methods of doing business, is the present highly competitive system of poorly located, disjointed and inefficient railway terminals serving the district.

Studies made and solutions offered by the New York and New Jersey Port and Harbor Development Commission, the first interstate body to study the question, were confirmed by the Port Authority with some changes which were made after conference, as far as possible, with all the transportation, com-

mercial, municipal and civic interests involved. Both these bodies established beyond question of a doubt that the old haphazard method of locating a railroad terminal where the expediency of the moment had suggested had resulted in a clumsy, duplicating, expensive and complicated machinery that made business in the Port of New York difficult to the point of endangering the commercial future of the district.

The Port Authority is composed of three representatives from each state who took office immediately after the Treaty between New York and New Jersey, signed in 1921, established it as the body to deal continuously with the development of the Port. The first duty laid upon the Port Authority was the preparation of a comprehensive plan for the co-ordination and development of the Port District.

The Treaty between the two states having been ratified by Congress and signed by the President in August, 1921, a comprehensive plan was then prepared by the Port Authority and passed by the Legislatures of the two states early in 1922. It was adopted by Congress and signed by the President July 1, 1922.

The comprehensive plan involves bridges and tunnels between the two states, belt lines which would serve every part of the Port District, and the linking up of all of the trunk line railroads into one co-ordinated whole. The plan as embodied in the statutes, definitely states the precise railroad facilities which are to be thus unified and in a series of nine principles embodied in the acts it is required that terminal operations within the port district should be unified, so far as economically practicable. In order to avoid needless destruction of existing capital investment and reduce as far as possible the requirements for new capital, the process of co-ordinating facilities is directed to adapt existing facilities as integral parts of the new system. In the resolution adopting the plan, Congress recites that, "the carrying out and executing of the said plan will the better promote and facilitate commerce between the states and between the states and foreign nations and provide better and cheaper transportation of property and aid in providing better postal, military, and other

services of value to the nation." The comprehensive plan in all of its details is set forth in the congressional resolution which "authorizes and empowers the Port Authority" to effectuate it.

The first duty of the Port Authority after the enactment of the resolution by Congress and its signing by the President on the first of July last, was to ascertain whether the trunk line railroads would, by voluntary agreement, enter into an arrangement for the joint use of their existing facilities and the joint use of their terminals, as now required by national as well as State law. The habits of years of continuous competition between the railroads for traffic still persist. It seems to be difficult to persuade a railway executive that, in the long run, his road will prosper more if the costs of terminal operation are reduced through unification of facilities. Notwithstanding the repeated admonition to the railroads that the one problem which they had failed to solve was the high cost of terminal operations, the Port Authority was disappointed to find that its repeated efforts to secure the active co-operation of the railway executives and their staffs were frustrated.

So long as a single one of the twelve trunk lines entering the Port District refuses heartily to co-operate in the effectuation of the plan, the power of Federal authority will have to be exercised. It is not conceivable that the railroads entering the Port District can for any length of time stand in the way of the determined and registered will of the two states and of the Congress of the United States. The principles upon which the proposed development of port facilities are based were themselves accepted in conference by all of the railway executives. It is time that the heads of the railroad systems recognized that economies in the public interest would likewise redound to their own interest.

Assured of Federal co-operation and just recently aided by an order of the Interstate Commerce Commission to the trunk line railroads to appear and show cause why such orders as may be necessary to effectuate the comprehensive plan should not issue, the Port Authority is now launched as an

instrumentality that can go forward with all possible speed to realize its program. One of the consequences of the unification of terminal facilities within the district and the elimination of present wasteful methods will be to clear the waterfront of railway terminals and leave it free for water-borne commerce. Besides, the extension of the railroad facilities into every part of the district will make possible the development of new industrial and home centers and by substantially decreasing terminal costs reduce the cost of living. Each municipality within the district will be able to make the most of its own advantages. Each borough within the City of New York will be able to make the most of its natural advantages. The State itself will be able to utilize to the full the Barge Canal system. The farmers of the State will be able to get their produce to the New York market so much quicker and so much cheaper. The effectuation of the comprehensive plan is the backbone of the future development of the Port of New York district, and upon it much of the prosperity of the State depends. It should be pushed with the utmost expedition and all agencies, federal, State, and municipal, should co-operate with the Port Authority to this end.

New York will never shirk its responsibilities as custodian of the gateway of the nation. It is a source of pride to be able to preserve and to foster its great commercial and industrial supremacy upon which its towering superstructure of human enterprise is reared.

While the comprehensive plan already adopted by the Port Authority is undoubtedly of advantage not only to the whole State but particularly to the cities within its borders, the fact remains that the interests and waterfront property of the City of New York greatly exceed the other cities in importance.

In further view of the fact that the treaty between this State and the State of New Jersey requires the consent of local authorities for the taking of municipal property, I deem it advisable that the City of Greater New York be represented on this State's part of the Port Authority.

To that end, I recommend that the statute governing the appointment of New York's representation on the Port

Authority be amended so as to permit the selection of two of the three members by resolution of the Board of Estimate and Apportionment.

BARGE CANAL

Except for such terminal improvements as may be later suggested, the construction of the Barge Canal has given the State an improved internal waterway capable of transporting a great volume of commerce. The terminals in course of construction should be completed without delay. This is true also of the grain elevator at Oswego because of the constant demand made by transportation of grain from the great lakes to the seaboard.

Serious thought should be given to the possible establishment of public markets adjacent to the terminals in order that both the producer and the consumer may get the full advantage of a reduced transportation cost. The State should exert every possible effort to induce capital to equip the canal system with boats. The present demands of commerce are in excess of the supply of carriers.

I would ask your earnest consideration of all proposals intended to bring to the State a return for the large capital investment in the canal system.

WATER POWER

Probably at no time in our history has the necessity for the immediate development of our water power resources been brought home so forcefully as at the present time. The whole eastern part of the country is today suffering from a coal shortage. The State last year took action to assist in a solution of the problem so far as the State could do it, but the fact nevertheless remains that we are hauling coal into this State by the millions of tons and allowing water power, capable of generating electrical energy, to run to waste which would furnish light, heat and power to millions of our people at greatly lowered cost.

Everywhere the people are demanding the right to receive directly the benefit of their great natural resources. The policy of the State in the past has been to permit of private develop-

ment for private profit. These great water power resources belong to all the people in this State and should be developed for the benefit of all. That can be brought about to my way of thinking only by State development, State ownership and State control. At a later date, I will take the opportunity to communicate again with your honorable body upon this very important subject.

CONSERVATION OF OUR FORESTS, FISH AND GAME

In the pressure of meeting new problems of government we must not forget the value to the State of her resources in the forests, the inland waters and her fish and game. The department charged with their care and conservation should not be hampered by any pennywise and pound foolish policy. An economy that neglects their proper care proves in the long run to be a false one.

At a later date I will communicate with your honorable body on this subject at length, making specific recommendations.

Within the limitations of my ability I have tried my best to set forth what I believe to be the problems that are pressing the people of our State for solution at this time. I do so with a singleness of purpose and that is to serve the State and her people. I have no other interest with the possible exception of a desire to prove myself worthy of the great vote of confidence that was reposed in me. I give you my assurance and promise of hearty co-operation with you to the very limit of my ability, in order that we may not only meet the needs of the State from the standpoint of her business transactions but place her where she belongs in the very front line of the commonwealths of the country that have their mind and their voice directed toward progress.

With a firm belief in the righteousness of our purpose, with an undying faith in the theory of our government, with every confidence in the ultimate purposes of the Legislature and a conviction that Divine Providence is with us I look forward to a success that if we try hard to attain will be ours.

(Signed) ALFRED E. SMITH,

APPENDIX

ESTIMATED RESOURCES FOR BUDGET OF 1923-1924

ESTIMATED RESOURCES

Estimated Revenue:

General property taxes:

State debt services	\$11,536,005 24
School teachers' salaries, etc.....	7,820,000 00
Court and stenographers' tax.....	738,000 00

Total general property taxes..... \$20,094,005 24

Special taxes:

Excise tax	\$5,000 00
Corporation tax	38,935,000 00
Organization of corporations.....	1,150,000 00
Personal income tax.....	16,500,000 00
Insurance premium tax (Insurance Department)	1,650,627 69
Inheritance tax	16,000,000 00
Stock transfer tax	8,000,000 00
Mortgage tax	3,200,000 00
Motor vehicles	12,971,000 00
Boxing exhibit tax	182,000 00
Motion picture tax.....	180,000 00
Arrears tax sales, redemptions, etc....	45,000 00

Total special taxes..... 98,818,627 69

Other revenues and receipts..... 7,443,043 50

Total Estimated Revenue.....\$126,355,676 43

Estimated surplus for general purposes July 1, 1923.... 35,647,080 36

Total Estimated Resources.....\$162,002,756 79

TRANSACTIONS OF THE STATE DEBT FOR YEAR ENDED
JUNE 30, 1922

Gross State debt July 1, 1921.....	\$267,784,000 00	
Less sinking funds.....	79,235,287 62	
Net State debt July 1, 1921.....	\$188,548,712 38	
Add:		
Debts incurred during the year:		
Temporary loans:		
Suppressing forest fires.....	\$24,000 00	
Joint Legislative Committee Investigating the Affairs of New York City	25,000 00	
Joint Legislative Committee on Taxation and retrenchment.....	7,500 00	
World War Bonus Commission....	25,000 00	
Forest Reserve Sinking Fund, interest on debt	50,491 20	
Total debts incurred during year.....	131,991 20	
		\$188,680,703 58
Deduct:		
Redemptions of debts during year:		
Temporary loans:		
Potsdam Normal School.....	\$44,000 00	
Joint Legislative Committee Investigating the Affairs of New York City	25,000 00	
Joint Legislative Committee on Taxation and Retrenchment.....	7,500 00	
World War Bonus Commission....	50,000 00	
Forest Preserve Debt Sinking Fund	50,491 20	
Funded debt:		
Saratoga Springs Reservation bonds	95,000 00	
Canal construction serial bonds....	136,000 00	
Highway construction serial bonds	400,000 00	
Forest Preserve serial bonds.....	100,000 00	
Total redemptions	\$907,991 20	
Net increase in sinking funds for year...	1,935,827 59	
		2,843,818 79
Gross State debt June 30, 1922.....	\$267,008,000 00	
Less sinking funds.....	81,171,115 21	
Net State debt June 30, 1922.....	\$185,836,884 79	
		\$185,836,884 79
Decrease in net State debt for the year.....	\$2,711,827 59	

STATEMENT OF GENERAL OPERATIONS AND SURPLUS
UNDER THE REVISED BUDGET ESTIMATES FOR THE
FISCAL YEAR ENDING JUNE 30, 1923, COMPARED WITH
THE ACTUAL TRANSACTIONS FOR THE FOUR YEARS
ENDED JUNE 30, 1922

	Revised Budget Estimates for Year Ending June 30, 1923	Actual Transactions for Year Ending June 30 1922
GENERAL OPERATIONS		
<i>Revenue Receipts:</i>		
General property taxes:		
Direct State tax.....	\$19,876,700 27	\$22,282,268 86
Court and stenographer's tax.....	737,952 28	725,720 13
Armory tax	843,296 39	884,361 09
Total general property taxes..	\$21,457,948 94	\$23,892,350 08
Special Taxes:		
Excise liquor tax.....	10,000 00	21,452 47
Corporation tax	34,737,000 00	37,792,790 53
Organization of Corporations.....	1,100,000 00	1,027,978 22
Personal income tax.....	16,000,000 00	14,900,000 00
Insurance premium tax (Insurance Department)	1,650,627 69	1,650,627 69
Inheritance tax	17,500,000 00	15,385,042 43
Stock transfers	8,000,000 00	7,708,924 28
Mortgage tax	3,200,000 00	2,784,756 20
Motor vehicle tax	12,445,500 00	10,652,348 62
Boxing exhibit tax	179,000 00	164,052 69
Motion picture tax	180,000 00	216,412 36
Arrears, interest, tax sales, etc....	55,000 00	70,112 80
Total special taxes	\$95,057,127 69	\$92,374,498 29
Other revenues and receipts	7,555,170 72	9,114,494 55
Total Revenue Receipts.....	\$124,070,247 35	\$125,381,342 92

	Revised Budget Estimates for Year Ending June 30, 1923	Actual Transactions for Year Ending June 30 1922
<i>General Expenditures:</i>		
Current expenses:		
Personal services	\$25,454,072 84	\$25,221,648 27
Other expenses	25,531,852 66	27,628,383 46
Total current expenses	\$50,985,925 50	\$52,850,031 73
Fixed charges and contributions.....	62,609,428 95	61,293,279 97
Total current expenses, fixed charges and contributions....	\$113,595,354 45	\$114,143,311 70
Capital outlays	15,799,106 72	12,525,860 75
Total General Expenditures....	\$129,394,461 17	\$126,669,172 45
Surplus or deficit of revenue receipts over expenditures	\$5,324,213 82	\$1,287,829 53

GENERAL OPERATIONS

*Consolidated Surplus for General
Purposes:*

	Revised Budget Estimates for Year Ending June 30, 1923	Actual Transactions for Year Ending June 30 1922
<i>Credits to Surplus:</i>		
Refund of advances Federal Rural Post Roads	\$3,500,000 00	\$2,668,929 34
Refund of advances Fuel Admini- strator Revolving Fund	1,000,000 00	
Sundry credits and adjustments.....	210,000 00	218,148 75
Total Credits to Surplus	\$4,710,000 00	\$2,887,078 09
<i>Charges to Surplus:</i>		
Deficit of revenues for the year as above	\$5,324,213 82	\$1,287,829 53
Advances for Federal Rural Post Roads	3,500,000 00	2,862,591 71
Advances for Fuel Administrator Revolving Fund	1,000,000 00	
Sundry charges and adjustments.....	500,000 00	1,088,440 52
Total Charges to Surplus	\$10,324,213 82	\$5,238,861 76
Surplus for the year after adjustment..	\$5,614,213 82	\$2,351,783 67
Add surplus beginning of year	41,261,294 18	43,613,077 85
Balance surplus end of year	\$35,647,080 36	\$41,261,294 18

**Recommending that Legislature Memorialize Congress to
Relieve Nuisance Occasioned by Oil and Petroleum
Floating on the Waters of New York Bay**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, February 13, 1923.

To The Legislature:

I desire to call to your attention to a condition about which there is considerable complaint at New York Harbor and along the shore front of Long Island.

The advent of the oil burning ships is responsible for a deposit of oil and grease that is not only creating a fire menace but seriously interfering with the health and recreation of our citizens. I, myself, have witnessed a condition that prevented ocean bathing during the warm months of July and August on the westerly end of Long Island.

As the offenses against public welfare occur outside of the jurisdiction of the State, it can only be remedied by legislative action at Washington. My attention has been called to a bill known as the Appleby Bill, intended to relieve the situation, now before the Rivers and Harbors Committee of Congress. I am further informed that the Hon. S. Wallace Dempsey, of Lockport, in our own State, is the Chairman of the Committee.

I would suggest that your Honorable Bodies pass suitable resolutions calling upon Congress to act in the matter to the end that we may be rid of the nuisance occasioned by oil and petroleum floating on the waters to the detriment of the public health and welfare.

(Signed)

ALFRED E. SMITH.

**Recommending the Establishment of a Military Memorial
Hospital at Kings Park for the Treatment and Care
of Mentally Affected Veterans of the World War**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, February 14, 1923.

To The Legislature:

On January 1st, 1923, 1,194 soldiers who fought in the World War were under treatment in our State Hospitals. Actually 217 were on visits to their homes under parole. Of these 1,194 men, 573, or a little less than half, had their maintenance paid by the United States Government. The remainder had been unable, in many cases, doubtless because of their inability through the temporary loss of their mentality, to convince the Veterans' Bureau that there was a direct connection between their war service and their condition. Officially, there seems to be a difference between the two groups as far as the attitude of the Federal Government is concerned. It should not interfere in the slightest degree with the obligation of the State to all of these men. If the National Government did make provision for the 573 men for whom it has already accepted responsibility, the State itself would still have to provide for the greater number. There is little probability that the Federal Government will quickly, if at all, enlarge its hospital facilities for the care of these men and this is a matter about which the people of the State should be very deeply concerned.

When the lack of Government provision and the special need in New York State was brought to our attention by the Director of the Bureau of War Risk Insurance in the summer of 1920, the Legislature appropriated Three Million Dollars for a special Military Hospital at Creedmoor. The Act making the appropriation provided for a Commission; that Commission I promptly appointed but the Federal Government failed to carry out its part of the agreement. Legislation to that effect in Washington failed of passage and our own Legislature subsequently reappropriated the money for

the erection of a civil hospital at Creedmoor, which is now under construction. That means that ex-service men are spread out in the different hospitals of the State through no fault of ours, as we carried out our end of the agreement.

The failure of the Federal Government to cooperate with the State, to bring relief to our suffering soldiers, is enhanced by the fact that the number of men who have lost their minds by reason of military service has steadily increased. From April, 1921, to January, 1923, the increase has been 81 per cent and the proportion for whom maintenance is paid by the Veterans' Bureau has decreased.

The people of this State want to do every possible thing that they can for the young men who offered themselves to the country in her hour of need and who are now suffering from one of the most serious forms of all diseases. These men are all of the same age and nearly all are similarly afflicted. They should all be in one place where they could be made the objects of special treatment and not spread out among the unfortunate wards of the State, many of whom are far past the possibility of recovery. We should make available at the earliest possible moment, a State Memorial Hospital into which these men can be collected and receive the best treatment that modern medical science can provide. The amount received from the Government will make it possible to install the best agencies for treatment.

By far the best provision existing in the State for ex-service men suffering from mental disorders is afforded by the buildings in Group III of the Kings Park State Hospital, now set apart for beneficiaries of the Government. On the first of January, 1923, there were 341 ex-service patients in that hospital. A unit for vocational training has been established there by the Veterans' Bureau. The surroundings are particularly comfortable and cheerful. No better special provision can be made in New York State hospitals today, at a reasonable cost, than by extending immediately the facilities at Kings Park to meet the needs of all patients among ex-service men from the Metropolitan area, including the counties of New York, Kings, Queens, Suffolk, Nassau, Richmond,

Westchester, Putnam, Dutchess, Rockland and Orange, and in fact from other parts of the State, because I believe the objection on the part of relatives to their transfer into institutions far from home will be overcome when the American Legion and the Veterans of Foreign Wars will be able to convince them that it is for the soldiers' own good.

In the four hospitals that receive patients from the districts just mentioned, there were on January 1st, 1923, 910 ex-service men divided as follows:

Kings Park State Hospital, Kings Park, N. Y.....	264
Manhattan State Hospital, Ward's Island, N. Y. City..	265
Brooklyn State Hospital, Brooklyn, N. Y.....	31
Central Islip State Hospital, Central Islip, N. Y.....	109
Hudson River State Hospital, Poughkeepsie, N. Y.....	73

making in all 742 men resident in the hospitals and 168 on parole.

Additions to the Military Memorial Division of the Kings Park State Hospital could take care of 1,000 patients. The details of how this can be done will be supplied to your committees with the necessary drawings, plans, etc., by the State Architect, who estimates the probable cost of one million five hundred thousand dollars.

I earnestly recommend that your Honorable Bodies give this matter your serious consideration to the end that the State may to the best of its ability take care of these young men out of gratitude to Almighty God, for the safe and sound return of so many American soldiers.

(Signed) ALFRED E. SMITH.

Recommending the Establishment of a Commission to Confer With Authorities of the States of Pennsylvania and New Jersey Regarding the Availability to the City of New York of the Water Resources of the Delaware River

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, February 19, 1923.

To the Legislature:

I am transmitting herewith copy of a letter received from the Board of Water Supply of the City of New York and I respectfully request that the Clerk be asked to read the communication to your members.

I recommend that an Act be passed bringing into existence a commission of three citizens of our State to confer with the authorities of the States of Pennsylvania and New Jersey for the purpose of preparing a treaty with these States, whereby the water resources of the Delaware River may be made available for the City of New York.

(Signed) ALFRED E. SMITH.

BOARD OF WATER SUPPLY

CITY OF NEW YORK — MUNICIPAL BUILDING

New York, February 5, 1923.

*Hon. Alfred E. Smith, Governor of the State of New York,
Albany, N. Y.:*

SIR.—One of any community's most important considerations having in mind the health of its citizens, the development of its industries and the protection of its properties from fire, is an adequate water supply; of special and particular importance is this consideration to a city like the City of New York because of its very large population, its constant growth and its relationship to our country at large.

Those charged with the responsibility of locating the sources of and providing the water supply of a city like the City of

New York must be anticipating its growth and needs by decades, so complicated, comprehensive and time-consuming are its investigations, the making of the plans and the actual construction work connected with same.

The present so-called Catskill water-supply system, dreamed of, studied and planned for many years prior thereto, and actively commenced under authority of the Laws of the State of New York of 1905, Chapter 724, will probably be completed within the next three years, but its entire wonderful supply together with the pre-existing supply of New York City still also in use, will only continue adequate for our City's needs at normal consumption rates until about the year 1935.

These considerations led the Board of Estimate and Apportionment of the City of New York on June 17, 1921, to adopt the following preambles and resolution:

WHEREAS, The Commissioner of Water Supply, Gas and Electricity under date of May 6, 1921, has advised the Board of Estimate and Apportionment as to the necessity of an additional supply of water to meet future needs of the City, and also as to the more immediate need of an additional tunnel and pipe conduits to convey water to the Boroughs of Brooklyn, Queens and Richmond; and

WHEREAS, This Board is of the opinion that it is imperative that studies looking to the solution of these problems should be immediately undertaken;

RESOLVED, That the Board of Estimate and Apportionment hereby requests that the Board of Water Supply shall undertake studies to ascertain the most desirable and best sources for an additional supply of water for the City of New York and the manner in which the supply can best be delivered to the several boroughs of the City, in accordance with Chapter 724 of the Laws of 1905, as amended; and the Commissioner of Water Supply, Gas and Electricity and the Board of Water Supply are requested to cooperate to the full extent in order that the interests of the City may be best served and to report back to this Board from time to time.

Pursuant thereto, the Board of Water Supply of the City of New York has undertaken the studies therein directed and

in the course thereof has given consideration among others to the Delaware River, and the conservation and development and use of its waters.

Ap[ro]pos thereof, we would state that the Delaware River is one of the great watercourses of the eastern seaboard. It has a drainage area of over 10,000 square miles. It rises in the State of New York and, after flowing 65 miles through that state, it becomes the boundary between Pennsylvania and New York for a distance of 82 miles to Port Jervis. From that point to the tidal waters of Delaware Bay, a distance of 100 miles, it marks the dividing line between New Jersey and Pennsylvania. The drainage area above Port Jervis is 3,435 square miles, of which 2,400 square miles, or 70 per cent, are entirely within the State of New York. The resources of the Delaware Basin are among the most valuable in the southeastern portion of our State but its waters are interstate as between three states and this fact has operated to retard and prevent their conservation. The Delaware River, located as it is, near the center of our Middle Atlantic seaboard, should be developed so as to serve the public interest and need. Its waters today flow largely to waste and their latent benefits are unrealized because of the uncertainty and lack of definition as to the rights which the three states may separately enjoy in them. No one of the three states, within its own boundaries, can adequately and profitably develop more than a minor part of the total resources of the Delaware. Only through joint action and agreement will it be possible to evolve a plan which will enable each of the states to realize its full share and measure of the benefits which are lying dormant and unused.

Among others the principal benefits which would flow to the three states from a comprehensive development of the resources of the Delaware are the following:

- (a) A large supply of hydro-electric power which would take the place of much energy now derived from high-priced coal.

- (b) Supplies of water for municipal and domestic consumption of the large future populations in each of the three states.
- (c) The equalization of the river flow with resulting reduction of flood damages and the benefits of a more uniform low season flow.

More than ever is it incumbent on us to look forward and plan for the requirements and necessities of the vast population which, before many years, will spread itself over the sea-board area of New York, Pennsylvania and New Jersey. The requirements of this area for power and for potable water ought not to be restricted by state lines, particularly when, as in this case, there is available a natural resource from which no one of the interested states can alone derive material advantage but from which all three, through joint action, can benefit largely.

The case of the Delaware is similar to that of the Colorado River as to which commissions of the states of California, Arizona, New Mexico, Nevada, Utah, Colorado and Wyoming, together with representatives of the Federal Government, have recently agreed on the terms of a treaty under which the waters of the Colorado will be divided and apportioned among these several states. The example there set is a wonderful and concrete illustration of the benefits and advantages to be derived from joint action and agreement. It points the way to a procedure under which New Jersey, Pennsylvania and New York might arrive at a working agreement looking toward the securing by each of them of great advantages possibly not realizable in any other manner.

In view of the foregoing, we are bringing this matter to your particular notice, and we earnestly hope that as our Chief Executive, you will inaugurate and give impetus to a plan of procedure which will ultimately result in securing to our State and its citizens in the City of New York and elsewhere her and their full share of the advantages which would accrue from a comprehensive plan for the development of the water resources of the basin of the Delaware River.

May we suggest that the procedure at this stage be that adopted relative to the Port Authority Plan — namely, that under authority of the Legislature, through proper bill or resolution, you appoint a commission to confer with similar commissions from Pennsylvania and New Jersey to negotiate and agree upon the terms of a treaty between said three States and the Government of the United States, to cover fully all matters relating to the conservation, use and development of the water resources of the Delaware River and to report back the result of their deliberations and negotiations.

Very respectfully,

(Signed) GEORGE J. GILLESPIE,
President, Board of Water Supply.

**Recommending the Passage of an Act Authorizing Bond
Issue of \$50,000,000.00 for the Purpose of Improving
Conditions in State Hospitals and Institutions**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, February 21, 1923.

To the Legislature:

The recent fire and the attendant loss of life at Manhattan State Hospital should serve as a warning and a lesson to the State to give our attention to our entire hospital and charitable groups. Whatever may be the outcome of any investigation, the fact is unquestionably known ahead of time that many buildings used for the housing of the wards of the State are old, out-of-date, and impossible of improvement, to the point where safety from fire can in any degree be guaranteed. Take the hospital group: The Binghamton State Hospital was used for the care of the insane as far back as 1879. The main building in the Binghamton group was used as an inebriate asylum as far back as 1860. The Brooklyn State Hospital was used as an insane asylum for the County of Kings since 1855; the Buffalo State Hospital has been used as such since 1880; and the Hudson River State Hospital since 1871.

The Manhattan State Hospital, where the fire occurred, has been used for the care of the insane since 1871. The particular wing that was burned out on Sunday last was built in 1870. Some of the buildings in the Manhattan group were used for immigrants and as a homeopathic hospital as far back as 1855.

Middletown has been used as a State Hospital since 1879. Rochester State Hospital was formerly the Monroe County Asylum, and was built in 1863. Utica State Hospital was opened as a hospital in 1843, and the Willard State Hospital in 1869.

In fact all of our hospitals, with the exception of Central Islip, Gowanda, and Kings Park, are all of the old-fashioned construction. These buildings should be replaced by modern structures, thoroughly fire-proof, if we are to feel secure from recurrence of the recent disaster or probably a more appalling one.

A survey of our State hospitals, recently made under the direction of the State Hospital Commission, indicates that very little structural change can be made because of the age and character of the construction of the buildings. What can be done, however, is to increase the water supply, install signal systems, and provide for additional fire fighting apparatus. This survey shows the need of an appropriation of \$1,438,950.00, the detail of which is attached hereto and made a part of the message. This at best in view of the age of these structures, can only help to tide us over the period until these structures, that are so out-of-date, are replaced by new, modern, fire resisting buildings.

I am informed that part at least of the loss of life occurring at Ward's Island could have been avoided if the hospital was being used to its proper capacity, but it is overcrowded and so are the rest of our State hospitals. Our mentally affected patients are growing at the rate of a thousand a year, and entirely aside from the necessity of replacements of the existing inadequate buildings, we must plan ahead for the construction of entirely new ones, in order to keep up with the growth of the population in these institutions. We cannot

afford to slow this up for any reason without making more acute the problem of overcrowding. In 1919 and 1920, the total amount appropriated for new construction was \$8,969,-071.62. In 1921-1922 that dropped to \$4,389,649.09. The dropping down of this appropriation will be reflected in the increase of population at a later date and make more difficult the problem.

Let us turn our attention for awhile to the charitable institutions as distinguished from the State hospitals for the insane. At a later date but in time for your appropriation bills, the Superintendent of Purchase will supply you with an estimate of the needs of the buildings in this group, for improvement in wiring, additional water supply and additional fire fighting apparatus.

The New York State School for the Blind at Batavia was opened in 1869. There are two buildings for the housing of inmates. The old building is about fifty-five years old and houses from 130 to 140 people. The building is equipped with proper fire escapes but is of the real old type construction.

The New York State Soldiers' and Sailors' Home at Bath has upon it some modern buildings but the hospital is very old, and while the patients are sleeping on the first floor, it should, however, be replaced with a modern building.

The Thomas Indian School at Iroquois was opened in May, 1856. It consists of nine buildings including a hospital. Some of the buildings are of recent construction, being only twelve years old. One of the buildings is sixty-seven years old, and while the institution is provided with adequate fire protection, including a tank, hose, etc., some new construction is required.

The Newark State School for Mental Defectives was opened in 1878. It has some new, up-to-date buildings, and some that were erected forty-five years ago.

The House of Refuge at Randall's Island was opened in 1825, but it is reported to me that the corridors are fire-proof, while the trim is wood. Its age suggests that it has outlived its usefulness.

The Rome State School for Mental Defectives has seven buildings in its group. One of them was erected in 1874, and

one in 1882, and were formerly used by the Oneida County Poor House for insane persons. The buildings erected in 1882 and 1874, house about 300 patients. While the institution has the protection of the city fire department, the old buildings should be replaced.

At Craig Colony, Sonyea, several buildings housing patients are over sixty years of age, and the recently built ones are non-fireproof. While they are all small cottages of the two-story type, the really old ones should be replaced.

The Syracuse State School for Mental Defectives was opened in October, 1861. In a message to the Legislature in 1920, I spoke about the danger of fire at this particular institution. I paid it a visit during August of that year and found that it was a real old-fashioned building with interior construction of wood. I recommended that the children be taken from the fourth and fifth floors. It is reported to me that that recommendation was carried out, but this building is old and out-of-date and should be demolished. When it was built it was outside of the city proper but the growth in the sixty-one years since its foundation has brought the city right up to it. The State owns some farm lands a short distance outside of Syracuse. The institution should be moved out to that place and a modern building provided.

At the New York State Hospital for the Care of Crippled and Deformed Children at West Haverstraw, the hospital building is new and of fire-proof construction. There are some patients housed in a wooden building. While it is true that the wooden building is only one-story high, it should be replaced by a modern structure, as these children are mostly all helpless.

I have given you as briefly as I can a survey of our situation, and I think it clearly indicates that action should be taken at once. Section 4 of Article VII of the Constitution provides:

“Except the debts specified in sections two and three of this article, no debt shall be hereafter contracted by or in behalf of this State, unless such debt shall be authorized by law, for some single work or object, to be

distinctly specified therein. On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: 'Shall this bill pass and ought the same to receive the sanction of the people?' No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election, nor shall it be submitted to be voted on within three months after its passage nor at any general election when any other law, or any bill shall be submitted to be voted for or against. * * *

I hold that the construction of a variety of buildings to be used exclusively for the care of the State's wards is a single work and a single object, and that object can be distinctly specified as required by the Constitution. We build from the proceeds of bond issues different types of State highways in different parts of the State, and different types of canal terminals in different parts of the State, and I can see no reason why we cannot build different types of buildings in different parts of the State when they are for a single purpose.

I am satisfied that the people will approve a bond issue for the construction of buildings that are designed to last for at least a hundred years. I think that can be safely assumed in the construction of steel and concrete buildings now in vogue. Of course, they would have to be equipped out of current revenues as the equipment would not have the life of the bonds. To meet the State's requirements along this line, fifty million dollars would not provide for more than five years. We are asked by the State Hospital Commission this year for four and one-half million dollars, aside from the Memorial Hospital for Soldiers already recommended, which would bring it up to six million dollars. This in the hospital group alone to say nothing of the charitable group.

While I recommend liberal appropriations for progressing the work this year and for betterments to existing conditions, I also recommend the passage of an act that will submit to the

people a referendum on a bond issue for at least fifty million dollars. Your committees might well consider even more.

(Signed) ALFRED E. SMITH.

NOTE — Referendum on bond issue as recommended above passed by the Legislature and approved by the people at general election.

Recommending the Abolition of Certain Boards and Commissions and the Statutory Consolidation of Scattered State Departments

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, February 26, 1923.

To the Legislature:

In the annual messages which I sent to you on January 3rd I stated that it would be desirable, pending the final adoption of the Constitutional amendments which are to bring about a permanent reorganization of the State government, to bring about certain statutory consolidations of scattered departments. My present message has for its purpose the recommendation of changes which can be made as soon as your Honorable Body passes the necessary legislation.

If you carry out these recommendations we will have taken the first long strides toward accomplishing the final consolidation contemplated by the constitutional amendments which have already passed the Senate and which I assume will shortly receive the approval of the Assembly. In the main these statutory changes follow the principles of the recommendations made to me by the non-partisan Reconstruction Commission which I appointed in 1919. They have been carefully studied and are based upon a wide field of experience. These consolidations are in no way to be considered as a substitute for the constitutional amendments, but if adopted, will bring us a little nearer to responsible government. By adopting these recommendations and passing the bills submitted to you in connection therewith about one hundred of the present State

agencies which are financially or administratively independent will be brought into some kind of coordination with the major State departments.

There are two types of administrative reform that can be brought about by statute and bills to accomplish what is herein suggested will be promptly submitted to you. One involves the total abolition of existing agencies with their functions, the other involves the consolidation of functions, re-grouping of agencies, and in some instances, the abolition of the agency with a transfer of some or all of its functions to another existing agency.

In the first group, those which are to be totally abolished are :

The Motion Picture Commission

Port Wardens

Harbor Masters

The Commission on State and Federal Taxation

The Salary Classification Commission

The Commission to Examine Feeble-Minded

The Commission on West Side Improvements

There is no need to transfer any of the functions of this group elsewhere.

The Motion Picture Commission can go out of existence without anyone feeling its loss. It should be abolished and a bill to accomplish this is already introduced.

The Port Wardens have been many times recommended for abolition by myself and even my predecessor suggested that they served no useful purpose. During the last administration they were deprived of salaries and made to collect their own fees, which are applied as salary. The State will not feel any deprivation in the loss of their services. There are apparently two Harbor Masters in the State at places on the Hudson River. If they have any function it is a local one.

The four commissions known as the Commission on State and Federal Taxation, the Salary Classification Commission, the Commission to Examine Feeble-Minded and the Commission on West Side Improvements are defunct and only encumber the statute books. All of these should be abolished.

In the case of the Miscellaneous Reporter, the functions of reporting opinions in courts of record should be transferred to the Supreme Court Reporter. The remaining functions of the Miscellaneous Reporter, namely those of editing State Department reports, should be transferred to the Board of Estimate and Control, which has facilities for this work. The position of Miscellaneous Reporter should be abolished.

We should abolish the State Board of Equalization. It discharges no function which could not be equally well discharged by the three members of the State Tax Commission sitting as a board.

The Commission to Examine Voting Machines performs no duty which could not be equally well done by the Secretary of State, who, as a matter of fact, has been charged by recent statutes with practically every duty relating to voting machines and election machinery which the State performs. This commission should go out of existence.

The functions of the Commission on Sites, Grounds and Buildings are taken care of by the State Board of Estimate and Control, and the State Architect, and it should be abolished.

In the second group, in which are included consolidation of functions and re-grouping of agencies, the most important consolidation is that of engineering and public works activities of the State. It is not possible to bring about the complete consolidation of these functions until after the passage of the constitutional amendments to reorganize the State government because the State Engineer and Surveyor is at the present time an elective officer, entirely independent of the Governor and of all other engineering departments and his position and duties are fixed by the Constitution. The Superintendent of Public Works is at present also a constitutional officer appointed by the Governor for two years. In addition to these there are two other agencies mentioned in the Constitution and dealing with those functions, the Canal Board and the Commissioners of the Canal Fund, both composed of ex-officio officers. Then there is the Highway Commissioner appointed for a five-year term and the State Architect for a three-year term.

All of these officials, including the Governor, Lieutenant-Governor and the Speaker perform various duties as members of other ex-officio engineering commissions. Thus the Trustees of Public Buildings consist of the Governor, the Lieutenant-Governor and the Speaker. The Interstate Bridge Commission consists of the State Engineer, the Superintendent of Public Works and the State Highway Commission. The New York Bridge and Tunnel Commission consists of commissioners legislated into office by statute and of representatives of the City of New York cooperating with a similar commission from New Jersey.

At the present time, water power and the control of streams are administered by the Superintendent of Public Works, two constitutional ex-officio boards which are the Canal Board and the Commissioners of the Canal Fund. In addition we have the Commission on Boundary Waters, which is composed of members of the Legislature, certain constitutional officers and appointees of the Governor. To these must be added the Water Power Commission, and the Water Control Commission composed of ex-officio officers and then besides all these, the Commissioners of the River Regulating Districts who have overlapping terms and for whom, therefore, no Governor at a given time can be held responsible.

A glance at this array of overlapping boards and commissions, all of them dealing with engineering problems, should be enough to demonstrate to any thinking citizen why the State government cannot function properly, why we proceed without a central engineering and financing plan for our great public undertakings and why neither the people nor the Legislature can have any right to hold the Executive responsible for the results. Certainly this is not the theory upon which any successful business enterprise can be run, nor is it the theory of party and personal responsibility which is the basis of our political system.

I have dwelt at length upon the present organization of the Public Works activities because it is typical of the way the whole State government is organized.

In order to take the greatest step possible at the present time toward the coordination of these public works activities, I am sending you a bill which places almost all of the public works activities above mentioned under the supervision of a Superintendent of Public Works, leaving out, of course, those which cannot now be touched, the constitutional boards and the State Engineer. The Water Power Commission and the Water Control Commission are left out because I think they should be left alone until some decision can be reached as to a change in the State's water power policy.

In the bill which I am sending you there is provision for four bureaus under the Superintendent of Public Works—the Bureau of Highways, headed by the Highway Commissioner, the Bureau of Canals and Water Control under the supervision of an Assistant Superintendent of Public Works and a Bureau of Architecture and Housing under the State Architect, and a Bureau of Public Buildings under a Commissioner of Public Buildings.

In the first of these Bureaus, that of Highways, I suggest that we place the present Highway Department, and the Interstate Bridge Commission. In the second, that of Canals and Water Control, we should place the functions of the present Department of Public Works, the Commission on Boundary Waters and the Commissioners of the River Regulating Districts, and all responsibility for canal water power, development and distribution. In the third, that of Architecture and Housing, we would place the present office of the State Architect and a new function, namely that of a supervisory body and clearing house of information on housing, building operations and city and county planning. The fourth would be the Bureau of Public Buildings, under a Commissioner of Public Buildings, whose function will be to carry on the work of the present Trustees of Public Buildings and the Superintendent of Public Buildings.

I am investigating the question as to whether it will be possible to abolish the New York and New Jersey Tunnel Commission, and to transfer the Vehicular Tunnel to the Port Authority where it belongs.

An important group of state activities which today are administered by a confusing, duplicating series of agencies are those dealing with the welfare and institutional activities of the State. State welfare and institutional activities are hopelessly scattered and are subject to so many overlapping inspectional and supervisory agencies that when anything goes wrong it takes a special investigator under the Moreland Act several months to fix any measure of responsibility. Any planning of a positive, humane and forward looking character is entirely impossible under present conditions.

There are two theories upon which such activities have been organized in other states. Upon one theory all of the institutional, charitable and welfare work of the state is grouped together in a single department, the idea being that all institutions and all welfare work present a single problem of management which can most economically be worked out under a central business head. Upon the other theory, the basis of centralization is not so much economical management as humane treatment. It is upon this second theory that I have based my specific recommendations in order to transfer the present scattered welfare and institutional agencies to the Department of Education when the welfare of public charges is best promoted by educational supervision, to the Health Department when institutions are concerned, which can best be directed through this department and where these institutions will serve as a laboratory for the field work of the department; and to the Adjutant-General, where veterans' welfare is concerned.

I recommend that the entire supervision of the blind, deaf and dumb and the Indians be transferred to the Education Department. At the present time there is a separate unpaid State Commission for the Blind with its principal headquarters in New York city, which is commonly supposed to represent the interest of the State in this problem, and which supervises training and recommends relief in some cases. There is a separate State school for the Blind directed by a local board of trustees, inspected by at least two State departments. There are also a number of private institutions for the blind which receive State aid, directly from the Legislature. Under the

present conditions there is not even an accurate census of the blind of the State and the State and its subdivisions are paying out large sums of money annually without even having a picture before them of the problem. The people who direct the Commission for the Blind have nothing to do with the State School for the Blind and no control over the State funds which go to private institutions for the blind. The State Department of Education prescribes courses of study in the State School for the Blind, has educational supervision of the blind in other schools and designates certain blind children as State pupils to be educated at State expense, but has no responsibility for the problem as a whole. Similarly the State Board of Charities inspects the State institution for the blind and private institutions for the blind receiving State aid. Surely the responsibility for the registration, education, training, employment and general care of the blind should be in a single department. That department should certainly be the Department of Education. Once we can get this responsibility fixed, we can deal with the problem as a whole intelligently. The situation as to the deaf and dumb is almost parallel and so is the situation as to the Indians.

Secondary vocational and agricultural schools of the State are now virtually independent of any central state authority and they are run by boards of local trustees who get their funds direct from the Legislature. The Department of Education and the Department of Farms and Markets now have some slight supervision over their activities. Under present conditions there is no central policy or direction of these institutions. We do not even know if we need so many secondary agricultural schools, or whether we have enough of them or what courses should be given. Certainly there can be no excuse for maintaining a number of schools, each operating independently upon its own theories of management. Almost every year appropriations are made for new buildings or equipment, for those schools, in the face of the fact that we do not even know if all the present facilities are needed. In addition to the secondary agricultural schools there are a number of State vocational activities, including the State School for Ceramics at

Alfred University, which should be brought under the Department of Education, together with the other vocational and educational agricultural activities. While I am aware that the Reconstruction Commission also recommended central control in the Department of Education over vocational and agricultural university activities supported in whole or in part through State funds, I think that the time has not yet come to recommend such supervision.

I also recommend transferred to the Department of Education the Board of Geographic Names and the Board of Embalming Examiners, and the supervision and budget control of those Supreme Court libraries which are now supported by State funds without, however, in this latter case disturbing the local trustees.

In working out the distribution of state agencies under central authority in accordance with the principle of humane care and treatment, I am still considering the problem of what to do with the reformatories, especially those for children. These reformatories are now without central supervision and control. They are directed, inspected and visited by many different agencies. It is useless to talk about solving the State's problems of juvenile delinquency under such conditions. Children, and perhaps adults, in reformatories, present primarily an educational problem and these state charges should probably be placed in the Department of Education.

In the constitutional amendments before you, the prisons go into a department of correction but the reformatories need not necessarily be placed with them, the question of where the reformatories are to go being left with the Legislature. Before recommending that the Department of Education take over the reformatories for children, it should first absorb the numerous other activities which I herein suggest shall be transferred to it immediately.

In order to consolidate three agencies in such a way as to bring about better administration with greater economy, and so as to relieve other state and local officials of the confusion and irritation involved in dealing with several state departments where one could do the work, I recommend that you

provide immediately for abolishing the Parole Commission and the Probation Commission and the transfer of their functions to the Prison Commission. The four present appointed members of the Probation Commission should become members of the Prison Commission which would thus be increased from seven to eleven members. There are at present three ex-officio members of the Probation Commission consisting of one member of the Board of Charities, one member of the Prison Commission and the Commissioner of Education. It is obvious that the Commissioner of Education can give no time to this matter. It is too much to ask a member of the State Board of Charities who has to give attention to the duties of that Board, also to give attention to the duties of another Board which has no relation whatever to the Board of Charities and whose functions are entirely different from those of the Board of Charities. These two ex-officio members should not be connected with the Prison Commission and, as the third ex-officio member of the Probation Commission is already a member of the Prison Commission, all of the ex-officio members of the Probation Commission would be disposed of by this transfer. The probation, prison inspection and parole functions are similar functions and belong in a single agency. As to the parole function, the present Parole Board consists of the Superintendents of Prisons and two paid Commissioners who meet monthly at each of the State prisons and simply approve the recommendations of the local wardens. They visit the same prisons which are being visited by the Prison Commission. I recommend that the Prison Commission designate members to sit with the Superintendent of Prisons to discharge the parole function at each of the State prisons.

Certain scattered health activities of the State can advantageously be transferred to the State Health Department.

I recommend the transfer to the Health Department of the State Tuberculosis Hospital at Raybrook, the State Hospital for Crippled Children at Haverstraw and the State Institution for Malignant Diseases. The present trustees of the State Institute for Malignant Diseases should be retained and the trustees at Raybrook and Haverstraw should be given the same

powers as are now exercised by the trustees of the hospitals for the insane. The Division of Tuberculosis of the Health Department is certainly the agency to administer a State tuberculosis hospital and the Bureau of Child Hygiene will take the best care of crippled children and in connection with its work against cancer the Health Department should have the Institute for Malignant Diseases.

On the same general theory of placing scattered agencies of similar function in a single central department, I recommend to you the transfer to the Adjutant-General, of the functions of the State Armory Commission, abolishing the Commission. Under the Adjutant-General there should also be placed the supervision of the Woman's Relief Corps Home at Oxford, the Soldiers' and Sailors' Home at Bath, the State Monument Commission, Meagher's Irish Brigade Commission and the supervision of appropriations to the Grand Army of the Republic and the United States Spanish War Veterans. In connection with the two soldiers' homes I recommended that the boards of managers be retained with powers similar to those of the boards of managers of hospitals for the insane.

Ultimately the Naval Reserve should be under the general supervision of the Adjutant-General. For the present I merely recommend that one of the scattered marine and naval functions be placed in the Naval Militia. For this purpose I suggest the transfer of the State Nautical School to the Commanding Officer of the Naval Militia, retaining the present Board of Governors.

It is clear that the time has come when we must have some central control and planning for our parks and places of scenic, scientific and historical interest. Each one now goes its own way, without reference to what the others are doing. At the present time each of these properties scrambles for its own appropriation and, of course, the larger ones are best provided for. What is even more important, under present conditions, there is no way of working out intelligently excepting through private enterprise and informal conference, any kind of a State park and recreational policy to meet the growing recreational and forest needs of the State.

There are over forty State parks and places of scenic, scientific and historic interest, not including the Indian reservations. These properties are scattered around under every possible kind of supervision. The greatest areas are, of course, under the Conservation Commission. Other properties are under separate boards and commissions, some of them consisting of local residents and others consisting of commissions who do not live in the vicinity and rarely ever visit the parks. Some of them are under the American Scenic & Historic Preservation Society and the New York Historical Society and others are under the Department of Education, the Superintendent of Public Works, Comptroller and the Trustees of Public Buildings. These parks and properties have been established not only by the State itself but also through private initiative, local efforts and gifts. They have been turned over to the State, one by one, without reference to any central plan of organization, administration, financing or use. I rejoice with the other people in the State that we possess so many properties of this kind and so many public-spirited people who have established these properties and have in many instances managed them well as a public duty at considerable personal sacrifice.

You will note that the constitutional amendments submitted to you will necessitate some kind of unifications of these properties. This matter is, of course, left to the Legislature. The logical method would be to maintain local boards and commissions but to have them brought together in the Conservation Commission for purposes of planning and budget making.

In order to make some start in the direction of such unified planning and central direction of state parks, I am sending to you a bill which provides for the establishment in the Conservation Commission of a State Park Council.

On this Council there will be representatives of each regional commission in practically every important region of the State, and together with the heads of the organizations controlling the places which are primarily scientific and historical, these representatives will constitute, with the Conservation Commissioner, a single park planning authority which will discuss and work out a program for all of these properties in the State. The

Conservation Commissioner will be ex-officio chairman. The members, in addition to the Conservation Commissioner, would be the heads of the Palisades Interstate Park, the Allegany Park, the State Reservation at Niagara, the President of the American Scenic & Historic Preservation Society, the Director of the State Museum and also the heads of the Roosevelt Memorial Park and the President of a new park commission to be known as the Finger Lakes State Park Commission. There will be a provision in this bill by which the heads of these organizations may designate other commissioners or executives to represent them on the council. I shall propose in a separate bill a single State Park Commission for the Finger Lakes Region to take the place of the two present commissions in this region and to have charge of all state parks present and future in this district.

I suggest that this new State Park Council prepare the budget for all of the park properties in the State excepting those under the Conservation Commission, and that the budget as finally agreed upon by a majority vote in this Council shall be included by the Conservation Commissioner in his estimates. This Council should make a report annually to the Governor on the planning and management of the State parks and it should meet at least every other month in order to discuss problems of management, construction and park uses.

There are several scattered agricultural and farm activities. I am not, however, willing to recommend consolidations affecting this department until the present Council of Farms and Markets is abolished and the commissioner at the head of the department is appointed by the Governor and responsible to him. Ultimately, I believe that the functions of the State Fair Commission and other similar activities should be transferred to the Department of Farms and Markets. The State Agricultural Experiment Station, I believe, clearly belongs under the supervision of the Dean of the State College of Agriculture at Cornell University. The work of the Agricultural Experiment Station is research work which should be co-ordinated with the research work at Cornell which is also paid for out of State funds. I believe that the trustees of the Agricultural

Experimental Station, most of whom are laymen, should be abolished and the Dean of the Agricultural College at Cornell should be made directly responsible for this activity, subject of course to the directing authorities of the university.

The adoption of the suggestions made in this message will undoubtedly make easier the work of the Legislature and will relieve the various State officers from the Governor down of a good deal of present-day labor in connection with the management and the detail of all of these State activities.

It has been brought to my attention that other States in the Union have taken advantage of the work of the Reconstruction Commission and actually brought about consolidation of departments and unification of scattered activities with a great deal of success.

I can see no reason why our own State should not get the full benefit at the earliest possible moment of a well thought out and well studied plan such as I believe to be herein set forth. We are living in an age of great material progress. Why government must lag behind and remain tied up to old reactionary ideas is more than I am able to understand. No business institution in the country could long survive if it attempted to carry on its business the way the State of New York is trying to do it. The surprise to me is that we are doing as well as we are in view of the scattered, loose-jointed, disorganized system under which we are struggling along.

(Signed) ALFRED E. SMITH.

**Recommending Emergency Deficiency Appropriation of
\$150,000 for the State Department of Labor**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, February 28, 1923.

To the Legislature:

I transmit to you herein, part of a communication which has been sent to me by the State Industrial Commissioner, asking that the request for a deficiency appropriation of \$150,000, for

personal service and maintenance and operation, to meet the urgent needs of the Labor Department for the balance of the fiscal year ending June 30, 1923, be made immediately available, and not take its usual course as a part of the general deficiency bill.

I, therefore, urge upon you that you immediately pass legislation making this appropriation available at the earliest possible moment. For your consideration in connection therewith, I quote the following from the communication to me of the State Industrial Commissioner:

"Taking its usual course, as a part of the general deficiency bill, this money would probably not be available until about the middle of April.

"The need for it is very great. Without going into details at this time, I want to point out that through lack of sufficient help the Bureau of Workmen's Compensation is not functioning properly. It takes from three to six months and often longer, for a case which is controverted by an employer, to reach the calendar for the first time. The number of referees is so inadequate that the calendars become congested; referees are often obliged to hear from seventy five to one hundred cases a day and cannot give the cases the attention and care that they deserve. The result is additional delay involved in applications to the Industrial Board for relief and in appeals to the court. In Buffalo, for example, I am advised that there are 3,245 compensation cases pending undisposed of. That is from four to five times as many as should ever be on hand in that office. 921 of these cases are what is known as final adjustments; that is, cases which involve a permanent injury. The assistant to the commissioner advises that it take at least from three to six months to get a case on the calendar for the first time.

"In Albany, I am advised that there is a delay of several weeks in sending out notices of awards, the congestion being very great. Similar conditions prevail in New York city and in other of our offices.

"It takes from two to four months to get minutes transcribed by hearing stenographers, because of the insufficient staff.

"Despite the fact that the Workmen's Compensation Law has been in force for so many years, I find that thousands of employers violate its provisions and fail to carry compensation insurance to protect their employes. The result is that if an accident occurs, often resulting in death, the employer who has failed to carry the necessary compensation insurance, is found in many cases to be financially irresponsible. The injured claimant and the dependents of those killed sometimes become charges upon public charity. It is in this class of cases especially that prompt disposition becomes imperative. I find, however, that it takes from four to six, and sometimes eight months for a non-insurance compensation case to appear on the calendar for the first time.

"I happened to sit on a calendar with a referee on February 23rd and the following non-insurance cases appeared at that time:

Date of Accident.	Employee's Notice of Injury.	First Hearing.
Sept. 9, 1922.....	Sept., 1922.....	Feb. 23, 1923
Aug. 17, 1921.....	Aug., 1922.....	Feb. 23, 1923
June 3, 1922.....	Oct., 1922.....	Feb. 23, 1923
Aug. 4, 1922.....	Sept., 1922.....	Feb. 23, 1923
Sept. 22, 1922.....	Oct., 1922.....	Feb. 23, 1923
July 25, 1922.....	Aug., 1922.....	Feb. 23, 1923
July 8, 1922.....	Aug., 1922.....	Feb. 23, 1923
Sept. 8, 1922.....	Sept., 1922.....	Feb. 23, 1923
Aug. 2, 1922.....	Aug., 1922.....	Feb. 23, 1923
Aug. 3, 1922.....	Sept., 1922.....	Feb. 23, 1923
Aug. 22, 1922.....	Aug., 1922.....	Feb. 23, 1923
Aug. 28, 1922.....	Oct., 1922.....	Feb. 23, 1923
July 28, 1922.....	Aug., 1922.....	Feb. 23, 1923
Sept. 20, 1922.....	Oct. 22, 1922.....	Feb. 23, 1923

"I cite these as typical instances of unjustifiable delay in disposing of these important cases.

"The fact of the matter is that through lack of appropriations the Bureau of Workmen's Compensation has been seriously crippled and its effectiveness greatly impaired. All this delay causes distress and suffering to injured workmen and

their families and denies to them the prompt benefits of the Workmen's Compensation Law to which they are entitled. Not alone does the delay operate as an injustice to the injured workmen, but it is unfair to many of the employers and insurance carriers who, as a matter of fact, repay to the State the entire expense of maintaining this Bureau and who want the bureau run efficiently and claims promptly disposed of.

"The records of the department are in such bad shape that claimants cannot get information about their cases and are obliged to come here repeatedly in order to find out what is being done towards disposing of their claims. Correspondence from claimants and employers is piled up unanswered because of an inadequate staff.

"In view of the conditions in the department, I am not surprised at the numerous complaints that you receive from injured workmen and forward to me for my attention.

"We need more referees, more hearing stenographers, more examiners and more clerks if we are to render any kind of efficient service in the Bureau of Workmen's Compensation.

"The Bureau of Inspection likewise is seriously handicapped, because, as you know, under the reorganization of two years ago the number of inspectors was arbitrarily cut in half. A report has just been submitted to me showing that important orders of the department for the removal of violations of the Labor Law affecting the safety and health of employes in industrial establishments remain uncomplied with for more than six, nine and even twelve months. Two thousand nine hundred and fifteen orders relating to accident prevention were reported to me as having been uncomplied with for more than six months, 1,076 of them for over a year. It is small wonder, therefore, that we are not making the progress in accident prevention that the workers and employers of this State have the right to expect.

"In industrial establishments up-state, the report shows that 315 orders relating to fire prevention remain uncomplied with for more than six months, 145 of them having been disregarded for more than a year.

"The Bureau of Women in Industry is without a staff with which to do effective work. About a year ago, this department was charged with the important duty of preparing an industrial code for places of public assembly — for motion picture theatres all over the State. Although a year has elapsed, no such code has been adopted, and practically no progress has been made by the department towards discharging its important functions with respect to these places of assembly where large groups of citizens gather.

"In many other respects, the department needs assistance, but I fear this communication has already been made too long. I can only repeat that the need for additional help and facilities is most urgent. I respectfully ask that you send a message to the Legislature, urging that the sum of \$100,000 for personal service and \$50,000 for maintenance be made immediately available for the Department of Labor for the balance of the fiscal year ending June 30, 1923, the same to be expended with the approval of the Board of Estimate and Control, to meet the pressing needs of the department."

I trust that this will receive your immediate attention and be speedily enacted.

(Signed) ALFRED E. SMITH.

Transmitting Progress Report of the Port of New York Authority

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 1, 1923.

To the Legislature:

I hereby transmit to your Honorable Bodies the Progress Report of the Port of New York Authority which sets forth the work of the commissioners and staff and the steps that have been taken since July 1, 1922, when the President approved the action of Congress in ratifying the adoption of the Comprehensive Plan. I would ask you to give careful consideration to the contents of the report.

(Signed) ALFRED E. SMITH.

Progress Report of the Port of New York Authority

February 1, 1923.

*To the Governor of the State of New York,**To the Governor of the State of New Jersey:*

SIRS.—The Port of New York Authority presents at this time a Progress Report of its work since the adoption of the Comprehensive Plan by the States of New York and New Jersey, Chapter 9, Laws of New Jersey, 1922, and Chapter 43, Laws of New York, 1922.

Since the passage of the foregoing laws, definite and specific progress has been made in the development of the Port of New York in accordance with the legislation.

Congressional approval and power have been secured.

Necessary steps have been taken to make effective the co-operation of Federal authorities in carrying forward the Comprehensive Plan.

Engineering studies necessary to determine the order in which the Comprehensive Plan shall be effectuated are at the point where definite actions may be based thereon.

Negotiations have been undertaken with the railroad companies entering the Port District. Upon failure to secure their cooperation in effectuating the Comprehensive Plan the powers of the Interstate Commerce Commission have been invoked.

Protection has been afforded to the people of the Port District against additional charges attempted to be imposed upon the transportation of food and other products.

In the distribution and marketing of foodstuffs, Federal, State and municipal agencies are being brought into cooperation so that the cost of these operations may be reduced.

The Port Authority has become the instrumentality for the distribution of information concerning the Port of New York and the plans for reducing the costs of terminal operations.

Contacts heretofore established with the people of the District through their organizations and through their municipal governments have been continued and strengthened. The

public generally has become more aware of the direct relationship of the port problem to their immediate needs.

The basis has been laid for adequate appropriations by Congress for the further development of the waterways and harbors within the District.

This entire work has required the continuous activity of the staff and of the Commissioners.

APPROVAL OF COMPACT AND COMPREHENSIVE PLAN BY CONGRESS GIVES PORT AUTHORITY ADEQUATE FEDERAL POWER

The compact between the two States, approved by Congress and the President, August 23, 1921, vested broad powers in the Port of New York Authority which were to become effective as soon as the two States should have agreed upon and adopted a Comprehensive Plan.

Some of these powers were such as the States could grant without further action by Congress, but as carrying out many of the steps involved in the Comprehensive Plan by the Port Authority would necessarily involve matters of interstate commerce and the interstate carriers engaged therein, it was deemed of importance by the Commissioners that Congress — which has paramount power over interstate commerce — should give the sanction of Federal authority to the plan, and the Legislatures of both States, therefore, directed the Port Authority to apply to Congress for such power. (See Section 8 of the 1922 Acts.)

The fact that the Port of New York is the main gateway of the nation, through which a vast amount of its foreign and its domestic coast-wise commerce is conducted, made it especially appropriate that the representatives of the people of the whole country should be familiar with the important plans which the States had adopted, the execution of which would necessarily have far-reaching consequences to the trade of the whole nation, and that these representatives should give their approval thereto and empower the Port of New York Authority to effectuate the same.

Pending the introduction of bills in Congress for this purpose, the Port Authority conferred with the several Federal

departments particularly concerned with matters relating to the Port, such as the War Department, including the Chief of Engineers and the Board on Rivers and Harbors, with the Interstate Commerce Commission, and with the United States Shipping Board including the Emergency Fleet Corporation, each of which under various statutes, including the Transportation Act and the amended Shipping Act of 1920, had specific functions and powers relating to the commerce, the waters and the transportation agencies within the Port District.

That Congress was fully aware of the importance of the proposed legislation and of the benefits for the trade of the Nation to be accomplished by the effectuation of the Comprehensive Plan, was made manifest in an important report made by the Committee of the Judiciary of the House, which it submitted with Public Resolution No. 66 of the Sixty-seventh Congress, House Joint Resolution No. 337.

President Harding recognized the great importance of the matter, and though it reached him only on Saturday, July 1, 1922, when he was under great pressure of many important matters and bound by engagements to leave Washington for a visit to Gettysburg, nevertheless he gave it his immediate consideration and approved it that day.

It was only upon the consummation of this step that the Port Authority became fully equipped to exercise the powers outlined in the compact and intended to be conferred by the two States.

The Comprehensive Plan is now legally authorized by the two States and the Congress of the United States and the police powers of the States and the interstate commerce power of the Congress are joined in effectuating the definite plan, with one coordinating body as the State and Federal instrumentality.

ENGINEERING STUDIES TO EFFECTUATE COMPREHENSIVE PLAN

Immediately upon the adoption of the plan by the two States, the Port Authority instituted, under Article 9 of the Fundamental Principles in the Comprehensive Plan, a series

of studies by its staff and field forces, covering methods for prompt relief to be devised through the better coordination and operation of existing facilities.

The field studies of the previous Bi-State Commission had been made as of the year 1914. The war which had intervened caused many changes in practices both under Federal Administration and after the transportation agencies were returned to private ownership. It was necessary, therefore, to conduct new studies of railroad pier station operations, deliveries and receipts, of trucking conditions to and from such stations, and of terminal operations, especially of those railroads using chiefly carfloat and literage for their delivery and collection services.

These studies necessarily covered a wide range of research and had relation to store-door delivery and collection services, marginal railroad lines, methods of lighterage and car-float operations, tonnages handled, costs of the important movements and the working out of economies to be effected by the joint use on reasonable terms of certain existing facilities, marginal lines and floating equipment.

Special surveys and studies relating to portions of the Comprehensive Plan applying to Brooklyn, Queens, the Bronx and Richmond were initiated and have continuously progressed.

FEDERAL COOPERATION

Congress approved in the Comprehensive Plan the provision that Belt Line No. 13 should embrace the Hoboken Shore Line R. R., now owned by the Federal Government (title being vested in the War Department). It became necessary, therefore, to make a detailed inventory and examination of the Hoboken Shore Line property and its traffic in order to be prepared for arriving at an agreement with the War Department upon the terms on which this line should become the property of the Port Authority for the purpose of having it included in Belt Line No. 13. This examination was completed on October 10, 1922. Negotiations with the War Department in this matter are now under way.

A number of conferences were also held with officers of the Emergency Fleet Corporation in Washington and New York with reference to the Hoboken Piers, owned by the Federal Government (title being vested in the United States Shipping Board), with the view of developing with them a policy in reference to the ultimate possession of the Hoboken Piers and the mutual cooperative use of these piers and the Hoboken Shore Line R. R. and a development of each of these facilities so as to contribute toward the effectuation of the Comprehensive Plan in that section.

DEVELOPING THE ECONOMIC PROOF

The subject is so vast that continuous field work must be carried on under the direction of the engineers and results assembled, classified and codified by the statisticians and accountants of the staff. It must be kept in mind that the Port Authority must develop the economic proof to support each of the various steps to be taken. This must be done whether for work to be undertaken by the Port Authority for which it is to issue bonds, or support orders requiring change in the methods and use of existing facilities. The time is now at hand when improvements in the methods of operating existing facilities can and should be made, and, when instituted, these improvements will in turn accelerate the beginning of additional physical facilities contemplated in the plan.

If one railroad only were serving the port, or if all the systems were under one consolidated management, many of the improvements planned could have been and probably would have been made long ago, with resultant benefit to the carriers and to the public interest.

The Port Authority is well aware and has at all times been careful to take into account the consideration that the credit and ability of the carriers to comply with the needs of commerce must be conserved, and that proposed changes must be made under such circumstances as will benefit the commerce of the port without injuring the carriers.

INDIVIDUAL DEVELOPMENT OF COMPETITIVE TERMINALS CAUSES WASTEFUL EXPENSE

The analysis of the Bi-State Commission and the studies of the Port Authority, however, clearly confirm the opinion expressed by the Interstate Commerce Commission in the New York Harbor Case, that much of the burdensome and wasteful expense which the carriers and the commerce now bear is attributable to the policy which has heretofore prevailed of individual and competitive development, without any coordinated plan for unified operation of terminals.

TRAFFIC STUDIES MADE

Early in the summer the Commissioners directed that special investigations should be made of traffic interchanged between the railroads on the westerly side of the port and those on the easterly side, destined for shipment beyond the Port District as well as for local deliveries within it; also of traffic interchanged between the railroads in New Jersey by rail and water and handled by each of them to and from local industries and steamship piers on the westerly side of the Hudson River.

The system of present operations, the tonnage handled and the cost of the operations constituted essential information needed in determining the Economic Proof relating to belt lines Nos. 1 and 13, and their relation to the tunnel under the Upper Bay from Greenville to Bay Ridge, and the middle belt line No. 1 in New York.

In the collection of this information the staff has had access to books and records of the companies and in some cases men furnished by the railroads have aided in eliciting the information. In the case of one railroad, cooperation was entirely refused.

CONFERENCES WITH THE RAILROADS

Conferences were had with representatives of several of the roads more particularly concerned with these investigations because their roads owned some of the terminal units involved in the studies. The Port Authority endeavored to bring the executives of these roads into agreement upon a policy the

details of which might be worked out between themselves, subject to final approval by the Port Authority if found consistent with the Comprehensive Plan. Formal communications on the same subject were addressed to the executives of all the twelve railroads.

Since it was not found practicable to bring about by negotiations a common agreement among the executives, who are accountable to different groups of owners, each being chiefly governed by his personal responsibility to his own group, it became necessary to utilize the Federal grant of powers vested in the Interstate Commerce Commission and the Port Authority and thus avoid further and unnecessary delay in the effectuation of the Comprehensive Plan.

CONFERENCES WITH INTERSTATE COMMERCE COMMISSION

Early in November the Commissioners and Counsel, accompanied by the Consulting Engineer and Chief Engineer, held a conference in Washington, D. C., with Division 5 of the Interstate Commerce Commission. At this time the legal status created by the approval of Congress and the President of the Comprehensive Plan was reviewed and plans were discussed for the future cooperation of the two bodies within their respective jurisdictions, in order that the legislative mandate might be carried out.

ORDERS ISSUED BY INTERSTATE COMMERCE COMMISSION

Following this, on the 11th day of December, 1922, the Interstate Commerce Commission issued an order, on its own motion, for an investigation in which all of the common carriers in the Port District reporting to the Commission were notified to appear and were made respondents. The date for the first hearing is to be named as early as the Commission can arrange for it.* The information which the staff of the Port Authority has secured will be presented for the purposes of determining what steps are now economically practicable in the effectuation of the Comprehensive Plan and what steps

* See postscript, page 131.

will improve the present practices and service, utilizing existing facilities as far as practicable, as required by the law.

An official record will be created upon which judicial determination can be based, and upon which orders can be made. Individual prejudices, of course, will have to give way to what is proved to be essential and necessary in the public interest.

ORDER OF STEPS TO BE TAKEN

The Commissioners are convinced that the State and Congressional legislation clears the way and effective progress can now be made. It remains only to determine what steps are to be taken at once and the order in which successive steps may best be taken so as to secure the ultimate accomplishment of the purpose of the law.

POTATO EMBARGO

In 1920, during the months of May and June, there arrived at New York from the three Southern States of North Carolina, South Carolina and Florida, 2,422 carloads of white potatoes. In May and June, 1922, the Pennsylvania Railroad reported that much larger quantities than ever before were tendered by southern shippers in these months.

In the month of May, 1922, the Port Authority took emergency action with reference to an embargo against the shipment of potatoes to New York, placed by the Pennsylvania Railroad. The railroad notified southern shippers it would receive potatoes only for delivery at a new yard established near Kearny, N. J., to which it had given the name Manhattan Produce Yard. That point was about five miles from the usual place of delivery of potatoes at New York and the change would have involved an extra expense to consignees and consumers for truck haul and ferriage, would have greatly disorganized the business and established a precedent which would have been highly detrimental to the interests of the port.

Conferences were immediately called with the officers of the road, as the result of which the embargo was withdrawn, but a week later notice that it would be renewed was again issued.

SUSPENSION OF EMBARGO

The Port Authority then protested to the Interstate Commerce Commission and a hearing was held at Washington followed by an examination conducted by representatives of the Interstate Commerce Commission in conjunction with representatives of the Port Authority. This resulted in a suspension of the embargo by order of the Interstate Commerce Commission. Further conferences were held with officials of the railroad and with consignees representing southern shippers.

The attention of the Governor of New York was directed to the situation by the Port Authority and through him the State made available space at the State Barge Canal Terminals.

Through negotiations with the Old Dominion S. S. Co. and the Commissioner of Docks of the City of New York, the Port Authority succeeded in getting the use of bulkhead and bonnet space in the market district for the railroad for emergency use during the short period of heavy shipments of this produce, the consignees cooperating with their shippers in regulating the daily shipments.

The matter was adjusted so that the use of the Kearny Yard was made unnecessary, and the additional burden that would have been imposed upon consumers was obviated.

SAVING TO CONSUMERS

Had cartage from the proposed Kearny Yard been necessitated by the railroad's action, the added cost to consumers would have aggregated, on the basis of minimum charge of 25 cents per barrel, more than a quarter of a million dollars.

REPORT ON FOOD SUPPLY

The Report on the Food Supply of the Port of New York District, prepared as the result of investigations begun in October, 1921, when there was a threatened suspension of all railway traffic, was completed and published in pamphlet form in the early part of 1922. This report furnished a complete record of all the food supplies coming to the Port District,

the principal sources of production, the usual methods of transportation and the quantities carried here in cold and dry storage, the annual consumption of all kinds aggregating the enormous total of 8,455,200,000 pounds. The annual consumption per equivalent adult of the population was figured out in pounds of each important item and aggregates 1,355 pounds per adult.

Cooperating with the committee in gathering the material and in the compilation of this report were representatives of the New York State Department of Farms and Markets, Department of Agriculture, of similar departments in the State of New Jersey, of the Department of Health of the City of New York, Department of Health of the State of New Jersey, the Bureau of Markets and Crop Estimate of the U. S. Department of Agriculture and a representative of the School of Business of Columbia University. This report furnished complete information upon this subject of great public interest and makes an invaluable reference book for many purposes, especially if the normal transportation of food products should be interrupted and emergency methods of supply become necessary.

FARMERS' MARKETS

In August, conferences were held with representatives of the New Jersey Bureau of Markets in reference to difficulties experienced by farmers and producers arising out of the inadequate provision for wholesale market places where farmers can deliver their produce direct without undue delay and without the use of too many intermediaries.

RETAIL PRICES OF FOODSTUFFS AND DISTRIBUTING COSTS

Special studies were undertaken and are still being conducted with the cooperation of the United States Department of Agriculture and civic organizations of women in the Port District, to establish the relation of distributing costs to retail prices. The completion of these studies will develop more economical methods of marketing foodstuffs in the Port District.

RELIEF FOR GRAIN CONGESTION

During the congestion which prevailed in the latter part of the grain shipping season, both in Canada and the United States, the Port Authority cooperated with representatives of the Interstate Commerce Commission in devising methods for increasing the service of available boats upon the State Barge Canal so as to relieve the pressure upon and more quickly clear the elevators at Buffalo and so ameliorate the delays experienced by lake steamers in discharging their grain cargoes.

NATIONAL DISSEMINATION OF INFORMATION CONCERNING
THE DEVELOPMENT OF THE PORT

Through various channels knowledge of the proposed developments and improvements in the port has been widely disseminated throughout the country. This has given confidence to the manufacturers, producers and shippers of the Nation that the States of New York and New Jersey propose so to develop this port as to give them the best and most economic service possible.

In September, representatives of the Port Authority attended the Annual Convention of the American Association of Port Authorities at Toronto, Canada. This convention was attended by delegates representing all the principal ports in the United States, Canada and England. Many papers were read and discussions held on various phases of port development.

At the Annual Convention of the American Bankers' Association, October 2nd to 6th, which was attended by thousands, maps of the Comprehensive Plan were distributed.

At the Marine Show held in New York, November 4th to 11th, the Port Authority submitted an appropriate exhibit. This exhibit was visited by very large numbers of people, many of whom displayed keen interest in the plans, and those in charge of the exhibit answered questions and explained details to all who were specially interested.

Representatives of the Port Authority attended the meeting of the National Rivers and Harbors Congress in Washington, D. C., in December, and an address was made outlining

the progress being made in the development of the port and in the business of the Barge Canal, which the officers of the National Congress are distributing to their entire membership throughout the country.

The Vice-Chairman made an instructive address to the American Fruit and Vegetable Shippers Convention at Chicago, Ill., on January 17, 1923.

EFFECT OF COMPREHENSIVE PLAN ON FEDERAL APPROPRIATIONS FOR HARBOR DEVELOPMENTS WITHIN THE PORT DISTRICT

The effect of the adoption of the Comprehensive Plan upon the matter of deepening and widening channels and improving harbors is to be found in the recent report of the Chief of Engineers of the War Department and the proposed Rivers and Harbors Act. (Annexed hereto is a table showing appropriations in previous years and the appropriations proposed for this year.) Congress, in the opinion of the Army Engineers, is justified in making appropriations now that there is a plan upon which to proceed.

The recommendations of the Chief Engineers of the amounts that should properly be expended in the next year for river and harbor improvement and maintenance totaled \$56,090,410.

The amounts included in this for the Port of New York District totaled \$7,937,000.

The Director of the Budget in Washington recommended a reduction in the total appropriations to \$28,082,610.

As any such reduction applied to this District would have very seriously affected the progress of the work here, the Chairman on January 16, 1923, telegraphed to all of the Congressmen from New York and New Jersey urging that no reductions be assented to in those items recommended by the Chief of Engineers for the Port of New York in the Port District as now constituted. In the telegram the Chairman stated that he considered these items essential in the interests of the commerce of the Nation handled through this port and of the communities dependent upon it in the Port District, as well as essential to the effectuation of the Comprehensive Plan as adopted by Congress.

The Chairman also wrote to the Chairman of the Committee on Rivers and Harbors and to the Senators from New York and New Jersey, that while the Port Authority was fully aware of the demand and the necessity for care and economy in Federal expenditures, nevertheless we believed it would be a very false economy to cut those expenditures directly necessary in the provision for and promotion of productive enterprise.

At this writing the House has passed the Rivers and Harbors Bill covering the full appropriations recommended by the Chief of Engineers and the Senate Committee has favorably reported it.

The Annual Report of the Port Authority will be submitted at the close of its year's work for 1922-1923.

Respectfully submitted,

The Port of
New York Authority.

EUGENIUS H. OUTERBRIDGE,
J. SPENCER SMITH,
ALFRED E. SMITH,
DE WITT VAN BUSKIRK,
LEWIS H. POUNDS,
FRANK R. FORD,
Commissioners.

POSTSCRIPT

Since the preparation of the foregoing Report the Interstate Commerce Commission and the Port Authority have fixed the fifteenth day of March, 1923, at 10 A. M., at the rooms of the Port Authority for the public hearings in the proceedings to effectuate the Comprehensive Plan and notice has been given to all the railroads and municipal authorities within the District.

February 19, 1923.

BENJAMIN FRANKLIN CRESSON, JR.

The Commissioners have the sad duty to report the sudden death on the 25th day of January, 1923, of the Chief Engineer of the Port Authority, Benjamin Franklin Cresson, Jr., fol-

lowing a serious operation that proved too great a shock for him to sustain. His physical power of resistance had undoubtedly been seriously depleted by the strain of the continuous hard work which he had been engaged in during the past five years, first as Chief Engineer of the New York, New Jersey Port and Harbor Development Commission, and then of the Port Authority since its organization.

Mr. Cresson was an able engineer, with a wide practical experience in port development and management, and both before and during his work with these two Commissions he had made careful studies of many ports in the United States and Europe. During the past summer, at the request of the Commissioners, he had visited all the principal Atlantic Ports of Europe and he had previously visited many of the Atlantic and Pacific Ports in the United States and Canada. He was thus equipped with knowledge and experience possessed by few others in this field.

On becoming Chief Engineer of the New York, New Jersey Port and Harbor Development Commission in 1917, he organized and built up a staff of technical and practical men with previous experience in each phase of terminal operations and their relations to land and water transportation.

Together with them he devised the methods by which the most comprehensive and accurate study ever made of terminal operations in this port was conducted, resulting in the analysis and report to the Legislatures of the States of New York and New Jersey in 1920, now recognized as the greatest work of its kind ever produced. It is not only the guide of Congress and the two States in the practical development of the Port, but it has become a text book sought after by investigators in ports all over the world and used in technical schools, colleges and libraries.

Appointed as Chief Engineer of the Port Authority, he presided at and conducted the conferences with representatives of the railroads, steamship and commercial interests, which during a period of six months reviewed in detail the work of the Bi-State Commission and resulted in establishing the correctness of that analysis and report.

Careful, methodical and logical in his processes of thought and work, possessed of ample courage and firmness in his opinion, he was nevertheless imbued with a modesty and gentleness in all his dealings with others rarely found in a man of his qualifications. These qualities endeared him to all those with whom he came in contact. He inspired a loyalty and enthusiasm for sound and accurate performance of duty in the staff which he had assembled which were unswerving.

His special abilities in the line of port development caused him to be sought for in the important work of consultation and planning in many other places where large improvements and expenditures were contemplated, notably among these — Wilmington, Delaware, San Francisco and San Diego, Cal., Tampa, Fla., and Camden, N. J. He was Chief Engineer and later Consulting Engineer to the New Jersey Board of Commerce and Navigation since its organization in April, 1915.

His loss is felt deeply by the Commissioners, personally, and by every member of the staff; but greater and more far-reaching than that personal loss is the misfortune that the two states and the nation at large suffer in being deprived of his expert knowledge and skill, just at a time when the plans, which he has had so large a part in formulating, are about to be progressed and in the carrying out of which his services would have been invaluable.

TABLE SHOWING CONGRESSIONAL APPROPRIATIONS 1914-1922 FOR CHANNEL AND HARBOR IMPROVEMENTS IN THE PORT OF NEW YORK, AND PROPOSED APPROPRIATIONS FOR 1923.

	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
1. Port Chester harbor.....	\$10,000	\$20,000	....	\$34,500	\$500	....	....	....	\$30,000	\$25,000
2. Mamaroneck harbor.....	....	17,800	....	7,000	....	....	....	....	....	103,000
3. East Chester creek.....	....	25,000	....	6,000	11,000	....	\$2,500	....	18,000	20,000
5. Westchester creek.....	....	36,500	....	....	....	....	....	....	12,000	475,000
6. Bronx river.....	....	100,000	....	250,000	....	....	....	....	....	280,000
7. New Rochelle harbor.....	....	....	....	....	....	....	....	....	....	35,000
8. Harbor at Flushing bay.....	....	....	....	....	....	....	....	....	....	10,000
15. Jamaica bay.....	....	....	....	....	....	....	....	....	....	600,000
17. New York harbor — entrance and anchorage channels.....	....	....	....	40,000	40,000	\$350,000	75,000	\$307,500	350,000	318,000
18. Coney Island channel.....	....	....	....	150,000	....	....	....	....	5,000	20,000
19. Bay Ridge and Red Hook channels.....	150,000	125,000	....	....	....	....	....	....	....	50,000
20. Buttermilk channel.....	....	....	....	....	....	....	40,000	....	2,300	200,000
21. Gowanus creek channel.....	....	....	....	....	....	....	....	100,000	....	....
22. East river.....	....	236,000	....	400,000	1,385,308	6,500,000	....	....	2,000,000	3,025,000
24. Newtown creek.....	....	125,000	....	250,000	220,000	....	....	....	80,000	100,000
25. Harlem river.....	....	375,000	....	450,000	....	....	300,000	....	....	250,000
26. Hudson river channel.....	....	....	....	....	810,500	200,000	....	450,000	350,000	100,000
New York totals.....	\$160,000	\$1,060,300	....	\$1,587,500	\$2,247,308	\$7,270,000	\$417,500	\$887,500	\$2,847,300	\$5,611,000
1. Newark bay.....	\$242,000	\$100,000	....	\$175,000	....	\$105,600	....	....	....	\$650,000
2. Hackensack river.....	....	....	....	6,000	....	88,000	....	....	....	100,000
3. Passaic river.....	....	....	....	....	....	....	....	....	....	30,000
4. Staten Island sound.....	400,000	449,889	....	500,000	....	....	\$170,000	....	....	1,000,000
5. Raritan bay.....	40,000	40,000	....	20,000	\$40,000	....	....	....	\$30,000	500,000
7. Woodbridge creek.....	12,000	12,000	....	3,000	3,000	....	....	\$9,000	6,000	6,000
8. Raritan river.....	....	3,000	....	....	....	250,000	....	....	20,000	20,000
11. Keyport harbor.....	....	5,000	....	5,000	5,000	....	....	20,000	....	10,000
13. Shoal harbor and Compton creek.....	....	10,000	....	5,000	....	5,000	9,636	....	15,000	10,000
New Jersey totals.....	\$642,000	\$619,889	....	\$714,000	\$48,000	\$448,600	\$179,636	\$29,000	\$71,000	\$2,326,000
Grand totals.....	\$802,000	\$1,680,189	....	\$2,301,500	\$2,295,308	\$7,718,600	\$597,136	\$886,500	\$2,918,300	\$7,937,000

Recommending Plan for the Licensing and Regulation of Automobiles and Operators

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 1, 1923.

To the Legislature:

In my annual message to the Legislature this year I called attention to the alarming increase in automobile accidents due to the careless operation of automobiles and the lack of central control and supervision of licensing and regulation of automobile traffic. This is best illustrated by the fact that in 1922, nineteen hundred and ninety-two people were killed by automobiles. In 1921 records filed with the New York State Automobile Association showed forty thousand men, women and children injured, and in addition to this there was considerable property loss.

One of the greatest concerns of the State should be the protection of life and limb. Under our present system statistics show that this protection where automobiles are concerned, is not being given. Control of the issuance of automobile license plates is one phase to be considered but far more important is the adequate control and regulation of automobiles through licensing operators and keeping a record of their conduct.

After a study of the present system, I am strongly of the opinion that our treatment of the subject of automobile licensing and the licensing of automobile operators is entirely wrong. Up to this time the State has treated the automobile from the single standpoint of making it a source of revenue for the State, and instead of imposing a license for the purpose of regulation, automobiles have really been looked upon as only an object for State taxation. Therefore, I am presenting for your consideration a policy and a program for licensing and regulating automobiles and their operators, which I believe to be based on sound fundamental principles and which should prove to be effective in practice.

Licensing automobiles for the purpose of regulating them is essentially a police function and should be carried on entirely under police regulation. This being accepted, the issuance of license plates and of operators' licenses should be taken care of in cities of the first, second and third class by the existing police departments. In many cities the police already have other licensing functions. In villages of 5,000 and over, it might be well to have this function performed by the police magistrates and in strictly rural communities it might be left to the sheriff. No one will deny that a local official is better qualified than any one else to pass upon and to keep track of the records of automobile operators in his own community.

A very important feature of regulation should be a bureau of records and information, located in Albany in the office of the State Superintendent of Police. Local authorities, magistrates, sheriffs or police officials should be required to report to the State Superintendent of Police all action taken for infractions of the Motor Vehicle Law or local ordinances of any kind and regulating the operation of motor vehicles with the disposition of the cases. Casualty companies should be required to file reports with the Bureau concerning property damage occasioned by automobile operation. This will give the State a complete knowledge of the whole situation. This information would be available for police chiefs, sheriffs and magistrates throughout the State in order that they may have ready access to the history of all operators of motor vehicles.

Every operator of an automobile in this State should be licensed. The present statute seems to me ridiculous. In addition to the licensing of chauffeurs, it requires men or women in the City of New York to obtain a license before they can operate an automobile either as owner or member of the family of an owner, but outside of Greater New York no such license is required. People from outside of New York City may, for a given period, operate an automobile within the city and frequently they are the very ones who do the greatest damage. No possible excuse within the bounds of reason can be offered for this condition. I am reliably informed by the Automobile Association that a great many of the accidents occur outside of the city of New York.

Approval of devices required by law to promote safe operation may also be vested in the State Superintendent of Police.

Our present policy of not applying at least a part of the money paid for licenses for the purpose of regulation is wholly indefensible. I would recommend that the State receive one-half of all license fees received. This sum should be placed in the general fund for the repair and maintenance of State highways and the other half should be given to the local authorities above mentioned for the purpose of regulation. This would enable the smaller cities and villages to have policemen at dangerous crossings and in the strictly rural communities would pay the expense of deputy sheriffs to prevent speeding on the country roads. In fact it would provide means for the general supervision of motor operation. The central bureau of records being accessible to the Governor and the Legislature, the fact that localities were not making proper provision for motor regulation would soon become apparent and the reverse would also be true.

We will then have centralized control and operation of what should essentially be a State function governed by a unified policy. The police in Buffalo would be enabled to know the record of an operator who had been running cars in New York City or any other part of the State and vice versa. This will be accomplished by the Central Bureau of Records and Information. A trained body of experts will soon develop, in the State Police where the records are kept, and in the various police agencies. In enacting legislation that will give the localities the opportunity to enforce the law with vigor and effectiveness, we will eventually develop a body of men trained for the service.

Automobile regulation being a protection to life, limb and property it is essentially a police function. I cannot see my way clear to permit the State to take the great bulk of the money resulting from license fees and not give any of it to the localities to assist in the enforcement of the law. I am unable to banish from my mind the two thousand dead people and forty thousand men and women who are the victims of

accidents that to my mind are in large part preventable. The State should, as far as it can, know every operator and know his record, if we are to cut down the fearful toll of accidents and damage due to reckless driving.

The above suggested changes in the law will not only put the duty of automobile licensing and regulation directly upon the proper authorities but will furnish them with the funds to make it effective and we will have responsible and adequate control of automobile operation in the interest of public safety. When we have materially contributed to the cost of regulation, the State will be in a position to exert its pressure on the proper authorities, to the end that they will exert their influence to the utmost for the protection of life, limb and property.

I recommend that legislation to bring this about be speedily introduced and passed.

(Signed) ALFRED E. SMITH.

Transmitting Report of Fire at State Agricultural and Industrial School at Industry and Recommending that Suitable Action be Taken

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 1, 1923.

To the Legislature:

I am sending you herewith as part of this message, copy of a letter just received from the Superintendent of the State Agricultural and Industrial School at Industry.

I suggest that it be read to the members of the Legislature and that suitable action be taken.

Respectfully submitted,

(Signed) ALFRED E. SMITH.

STATE OF NEW YORK—STATE AGRICULTURAL AND
INDUSTRIAL SCHOOL, INDUSTRY, NEW YORK

February 26, 1923.

*To His Excellency, Hon. Alfred E. Smith, Governor of the
State of New York, Albany, N. Y.:*

MY DEAR GOVERNOR.—It is with very much regret that I am obliged to report the destruction by fire of the main part of our hospital, as indicated within red ink on attached picture. There were thirty-one boys confined in the hospital at the time, only one of whom was seriously ill. The others were convalescents and those suffering from grippe, colds, minor accidents, etc. These boys were removed from the hospital to nearby cottages within seven or ten minutes after the fire was discovered and the work of saving the contents of the building was begun immediately, for it was at once apparent that the building, being a wooden structure, was doomed.

A very searching examination by the Superintendent and his staff, supplemented by a similar examination from an Inspector of the State Board of Charities, who was here within twelve hours after the fire was out, leads to the general conclusion that the fire started from a spark emitted from the west chimney which lodged in the roof and burned through to the attic. This gave it opportunity to gain considerable headway before it was discovered by one of the boys, who did heroic work in trying to put it out.

The fire was reported to me at 4:45 P. M. February 23rd. Within ten minutes our fire apparatus was on the scene and had two streams playing, which, at the start would not reach the roof of the building, due to low pressure. Streams from two standpipes, with four outlets, were also used, as well as fire extinguishers.

Too much praise cannot be given for the heroic work rendered by the officers and boys. This may be better appreciated when it is understood that the wind was from the west but the east wing was saved.

The building was erected about 1905 at a cost of \$15,000. Furnishings cost about \$5,000 more. The building with its

present equipment could not be duplicated for \$40,000. A new fire-proof building should be erected at once.

At present the boys will be quartered in one of the service buildings until the east wing can be put in shape for a temporary hospital.

It is respectfully urged that recommendations for increased fire equipment and other measures for fire protection receive favorable consideration.

The spark that started the fire resulted from the burning of soft coal which we have been compelled to use most all winter. Our furnaces and chimneys were installed for hard coal.

Respectfully submitted,

(Signed)

HOBART H. TODD,

Superintendent.

WATER POWER

Recommending Development by the State of Undeveloped Water Power Available on the Niagara and St. Lawrence Rivers; Transmission and Sale of Power Thereby Created to Municipalities; Repeal of all Statutes Authorizing Private Development of Water Power Belonging to State and an Appropriation of \$75,000 to Defray Expenses of Attorney-General in Action Against Federal Government to Determine Right of State to Develop Power of Navigable Rivers Within its Borders

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 5, 1923.

To the Legislature:

In my first message to the Legislature, I spoke about the necessity for the development of our water power. Our resources in this direction excel any other State in the Union. The Niagara River on the west and the St. Lawrence on the north furnish power possibilities of immense value. The flow of these rivers is unusually uniform compared with other

streams of the State. They stand alone so far as the quantity and quality of available power is concerned. These two rivers are capable of furnishing sufficient firm primary basic power to serve the needs of all of our people. Electrical energy from these streams can be transmitted to every municipality in the State. The art of electrical transmission has advanced to that extent. There is a very urgent demand for such energy everywhere for light, heat and power. Our municipalities need it for light; our industries demand it for power.

The State should develop these power resources on these rivers and transmit energy created thereby to every municipality over transmission lines owned and controlled by the State. Under proper management, the State can develop these powers cheaper than private corporations. This is obvious from the fact that the State is enabled to secure funds for such development at a much lower rate of interest than private capital. This would enable our municipalities to secure an abundance of firm primary basic power for distribution in such manner as they may determine at approximately the cost of production and delivery. The ultimate consumer would be able to secure this power at the lowest possible price.

I recommend:

First: That appropriate legislation be enacted to carry out this policy, which means the immediate development by the State of the undeveloped water powers available on the Niagara and St. Lawrence. We should at the same time provide means for the transmission and sale to the municipalities of the electrical energy thereby created. Provision should be made for beginning the work immediately. To do this will require an adequate appropriation of public funds made immediately available.

Second: That the State Engineer be clothed with the power and charged with the duty of beginning development work at once by the most economical plan that will contemplate development and distribution to municipalities by the best methods known. Ample authority should be conferred upon him to enter upon negotiations with the

Federal Government for consent to develop hydro-electric power on these streams consistent with its control over these waters for navigation.

Third: That pending the development of all these powers, existing transmission lines should be declared common carriers by law and compelled to transmit electrical energy at a reasonable price.

Fourth: That no further permits or licenses for the development of power should be granted to any private corporation. The surest way to bring this about is to repeal any statute creating any commission, board or officer already vested with any such authority. Any statute heretofore enacted conferring upon commissions, boards, bodies of any kind, power to grant any right, leave or license to develop water powers that belong to the State should be instantly repealed.

Fifth: That seventy-five thousand dollars (\$75,000) be made immediately available to the Attorney-General to enable him to defray the expenses of the action now pending and begun by the State against the Federal Government designed to determine the right, control and jurisdiction of the State over the navigable waters within its border for power development.

This action should be prosecuted with the utmost care, vigor and dispatch in order that this vital question be finally determined. We have already delayed too long. While we have been debating and bickering over the enactment of laws for the progressive development of our great water power under State ownership and control, the Federal Government has enacted a water power law which challenges our right, authority and jurisdiction over the navigable waters of our State in all matters relating to power development.

The Federal Government contends that it has the right, authority and jurisdiction to control and dictate by license how, when and where developments are to be made on the Niagara and St. Lawrence rivers, as well as all other navigable streams of the State. Such right and authority, if sustained, would

enable the Federal Government to deprive the State of New York and its people of this priceless heritage bestowed upon us by the Creator himself. In the final analysis it would permit the Federal Government to divert the energy created by the fall of water in our streams to other states against our will. The bed of our streams over which power-creating water flows belongs to the State or, better still, to its citizens. Our use and control of the same is threatened. I am credibly advised that a strong and determined propaganda is now being spread in support of a plan to divert the electrical energy from our border streams to territory outside the State. This we must resist with all the power that we can bring to our command.

No pending public question is of more moment to the people of this State than the development of this great resource. It has been exploited in the past in the interest of private corporations that have operated it for private gain. What remains of it must be developed in accordance with the enlightened thought of today, and that I take it to be by the State itself, under State ownership and State control, to the end that all of the people may be able to realize the individual benefit which should flow to them from their own resources and their own property.

After investigation now in progress with respect to the development of power from surplus canal waters at Crescent and Vischer Ferry, I shall take occasion to address you further upon that subject.

(Signed) ALFRED E. SMITH.

**Recommending Consideration of Measures Designed to
Bring Military Law of the State into Accord with
Federal Statutes**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 6, 1923.

To the Legislature:

The United States Department of War has just finished the allotments of troops to the various states. The number

required is 250,007. New York must furnish 25,380, divided as follows:

19,345 Infantry
1,886 Cavalry
2,229 Corps and Army troops
1,920 Coast Artillery

This is the peace strength of the New York National Guard which should be reached by enlistment as soon as possible and not later than June, 1926.

The importance to the Nation of the New York National Guard cannot be over-estimated, and in the plans formulated by the General Staff of the United States for the defense of the Nation against invasion, the soldiers of New York are given a position of great importance. That portion of the country extending from Massachusetts to Maryland is its vital center. New York is in the very heart of it and no effort can be too great nor any standard too high for the National Guard of our State. New York's military establishment is handicapped by the present form of its organization. It is built upon lines laid down twenty years ago. It does not comply with the Federal statutes and its efficiency is impaired to some extent for this reason.

The Adjutant-General informs me that bills are in the course of preparation to bring the military law of our State into harmony with the Federal statutes and I ask you to give them your earnest and careful consideration.

(Signed) ALFRED E. SMITH.

Recommending Passage of Act Authorizing Sale of State Arsenal in New York City and Providing for the Erection of a Modern Building

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 12, 1923.

To the Legislature:

I desire to call your attention to the Arsenal located at 463 Seventh Avenue, New York City.

This building was built in 1859 and at that time was on the outskirts of the city. At this particular period, the Guard consisted of about 10,000 soldiers. They purchased their own uniforms and equipment and the building was designed to hold a small quantity of supplies. At the present time there are twenty-five thousand troops and they are uniformed and equipped by the Federal Government. All of this equipment must be stored in the Arsenal and, in addition, we keep extra material for war strength, which, to say the least, doubles the quantity of merchandise which the building was originally intended to store.

Aside from its inadequacy, it has been declared unsafe by an inspector from the office of the State Architect. The walls are bulging and the stone saddles that support the columns are broken. The floors and stairways are weak and the roof is very much in need of repairs. It contains at the present time more than a million and a half dollars worth of material and constitutes a very great fire hazard. If the city were to exercise its jurisdiction over unsafe buildings, we would not be permitted to use it. The plumbing is old and insanitary. There being no cellar to the building, the first floor is damp and constitutes a standing menace to the health of the employees. Its dilapidated appearance is a disgrace to the State. Its elevator capacity, lighting and heating facilities are in keeping with its age, and while the land was purchased and the building put upon it in 1859, at a low cost to the State by comparison with present-day values, the land has enhanced in value to such an extent that competent appraisers fix its value at anything from seven hundred to eight hundred thousand dollars.

We should have a new arsenal at the earliest possible moment and it should be located in South Brooklyn, adjoining the Federal Army base, because from there the State receives its supplies from the Federal Government, and from there in carload lots they can be distributed to the various units throughout the State at a considerable less cost than we now have to pay, as the handling and trucking is a large item in itself.

I suggest the passage of an Act that will give to the Governor, the State Comptroller and the Adjutant-General the power to sell the old arsenal to the highest bidder and provide for the erection immediately of a modern building to take its place. They should be further empowered pending its completion to make arrangements for the temporary storage of the valuable property now contained in the old arsenal.

This action would, in my opinion, be really economical from the standpoint of the State for the future. If the old building is to be maintained, the annual cost to the State for repairs would be entirely out of proportion to its worth.

For the carrying out of this plan, an appropriation of eight hundred thousand dollars should be made. This appropriation would be offset by the contribution to the General Fund from the sale of the property.

(Signed) ALFRED E. SMITH

Transmitting Report of the State Hospital Commission on the Fire at Manhattan State Hospital

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, March 13, 1923.

To the Legislature:

I transmit herewith a report of the State Hospital Commission on the recent fire at Manhattan State Hospital, and I call your attention to that part of the report which places the primary cause of the loss of life on the overcrowding. Eighty-nine patients were on a floor intended to care for fifty. I call your further attention to the last part of the report, speaking about the installation of a high-pressure salt-water system for fire-fighting purposes, but above all other things, that part of the report which deals with the absolute necessity for replacing the old hospital buildings with modern fire-proof structures.

I have already communicated with your Honorable Bodies at great length on this subject, and I bespeak your earnest consideration of this report, which seems to bear out the contention that these buildings must be replaced.

Respectfully submitted,
(Signed) ALFRED E. SMITH.

Report of the State Hospital Commission

STATE OF NEW YORK—STATE HOSPITAL COMMISSION

Albany, March 2, 1923.

Hon. Alfred E. Smith

Governor, State of New York

Albany, N. Y.

Dear Sir:

Supplementing the verbal reports made to you regarding the tragic and disastrous fire at the Manhattan State Hospital Sunday morning, February 18, 1923, the State Hospital Commission would respectfully report that it has thoroughly investigated all the circumstances of the catastrophe and finds as follows:

DESCRIPTION OF FIRE

The fire occurred in ward 43, which was located on the third or top floor of the so-called west wing of the East Main Building at the extreme end of the wing. The night supervisor passed through the ward at 5 A. M. and noticed nothing unusual at the time. A kitchen employee and an outside night watchman passed the building about 5:05 A. M., and neither saw evidence of fire. However, a few minutes later an attendant on a ground floor ward, situated at an angle with that portion of the building in which ward 43 was located, on looking from a window noticed a flame of considerable size shoot out from beneath the roof over ward 43.

He at once turned in a fire alarm, it then being 5:11 A. M. The hospital fire department responded promptly and had three streams of water on the fire in about ten minutes. A few moments before the fire alarm was sounded from the ward below, the two night attendants on ward 43 saw a small blaze in the ceiling of the ward and were about to turn in an alarm, when they heard the alarm sounded from the other ward. One of the night attendants immediately began to remove patients to an adjoining ward, while the other manned the ward fire apparatus and almost immediately had a stream of water on the fire from the ward standpipe. As other employees responded to the alarm, they assisted in removing patients from the exits at either end of the ward and in fighting the fire with the ward apparatus.

The fire seemed to be under tremendous headway almost as soon as discovered, for a considerable portion of the ceiling of ward 43 fell not more than five or six minutes after the alarm, and it was but a few minutes later when a large unused iron water tank located in the attic above the ward crashed through to the floor, blocking the ward, so it was impossible to pass from one end to the other, and also partially blocking the entrance to a large alcove at the center of the ward, where a number of patients slept, and where the greatest loss of life occurred. However, the work of removing patients was continued until flames and smoke rendered it impossible to remain longer in the ward, a period of time probably not exceeding twenty minutes.

At about the time the hospital employees were driven from the ward a considerable number of New York City firemen arrived at the scene. They rendered excellent service in assisting hospital employees in fighting the flames and in removing patients. They added a fourth stream of water from a New York City fire boat.

The fire was not brought under control until about 6:30 A. M., and at that time ward 43 was completely destroyed, while considerable damage had been done to the two wards situated beneath it, principally by water. It had soon become evident that it would be impossible to save ward 43.

and therefore efforts were directed toward saving the remainder of the building, which was accomplished only with considerable difficulty. Had there not been fire walls between the different sections of the building, it appears certain that the entire wing would have been destroyed.

CAUSE OF FIRE

Several theories have been advanced as to the cause of the fire, but it is impossible to definitely determine just what was the actual cause. However, it is the opinion of the State Hospital Commission that the evidence adduced is such as to render it possible to exclude the theory of defective insulation of electrical wiring, and also the theory of spontaneous combustion.

It can be stated that all wiring was enclosed in iron conduits, which, so far as inspection subsequent to the fire showed, were in good condition. Some of the electric lights continued to burn for some time after the alarm, which would of course have been impossible, had there been a short circuit. Spontaneous combustion of dust accumulation in ventilating or heating fuse does not appear probable, as tests made in igniting such material after the fire showed that while it was easily ignited, it was not of a composition to suggest spontaneous combustion.

The most reasonable theory seems to be that the fire originated in a ventilating flue through the introduction of a lighted match or unextinguished cigarette end, which some person (probably a patient) threw through the gating, covering an opening to a flue. It is certain that the ventilating flues contained much debris and dust, as it was impossible to clean them, owing to the fact that they were built with so many bends that no cleaning instrument could be introduced through them. During the fire one of the New York City firemen noticed flames in one of the ventilating flues near the place the fire seemed to originate, although at the time it was supposed the flames were proceeding from the attic downward, a conclusion which may easily have been erroneous in the excitement of the moment. Although no ventilating flues extended from the side walls of ward 43 to the attic above, they

did extend from the side walls of each of the two wards below, upward to the attic over ward 43. At all times such flues show a well-marked upward current of air, and it appears possible that a bit of burning material was carried by the draft upward through a flue to the attic, which was filled with dust and was inflammable.

Patients are searched daily when out for exercise and after being visited, for matches and smoking material, and such articles are occasionally found upon them, they either having obtained them in a surreptitious manner, or as has happened, friends leaving them with patients, in spite of orders to the contrary.

The fact that the fire was so far advanced when discovered suggests it must have smouldered and spread over a considerable distance and for a considerable period of time before discovery, which would support the idea that a smouldering fire had been carried through a ventilating flue from a ward below ward 43 to the attic, and it is the opinion of the State Hospital Commission that such theory must be regarded as the most tenable one to explain the cause of the fire.

CAUSE OF LOSS OF LIFE

As a result of the fire 22 patients and 3 employees lost their lives, while since the fire, 2 more patients have died as the result of exposure in being removed from the ward. The primary cause for such loss of life was the overcrowding on the ward. In a ward certified to care for fifty patients, it was necessary to house 89 on the night of the fire. The only rooms on the ward which were locked were those occupied by employees, and one of the night attendants rapped upon such doors when the fire was discovered. However, but one of the employees sleeping on the ward made his escape. The only patient in restraint, which prevented him from leaving his bed, was removed from his bed and gotten out of his room.

The rapidity with which the fire spread after the discovery, with the probability that it had existed for considerable time prior thereto, also contributed to the failure to secure the re-

moval of all the patients on the ward. Such facts indicate the danger of housing patients in non-fireproof structures, and the loss of life must in a measure be attributed to the non-fireproof character of the building.

Another fact which contributed to the loss of life was the fall of the old water tank, blocking passage of the ward. It fell nearly in an upright position, the supporting iron girders having been so heated as to bend approximately evenly on either side. Such fact is additional evidence that the fire must have raged for a considerable period prior to discovery. However, had there been only the proper number of patients on the ward, it seems reasonable to suppose that neither the rapidity of the spread of the fire, nor the fall of the tank, would have prevented the removal of all of the patients, for as a matter of fact more patients than the normal capacity of 50, or 67 patients, were actually removed. In such connection it should be stated that the fire-proof stairways at either end of the ward furnished ready and safe means of egress.

FIRE PRECAUTIONS OBSERVED BY HOSPITAL

It was found that officers, employees and patients had been properly trained and instructed to deal with fire emergencies, fire drills having been held regularly. The filed report of the fire chief under date of Feb. 17, 1923, shows that the basement beneath the destroyed ward and all wards in the building had been inspected as regards fire risks and as regards condition of fire equipment the preceding week, as was customary. Furthermore, a re-assignment of employees in September, 1922 was made to insure more constant supervision of the wards at night. The ward fire equipment was in good working order. There was no undue delay in turning in the alarm and the water pressure was satisfactory, although there was insufficient water supply, owing to the fact there is but a single water line near the building.

CONDUCT OF HOSPITAL PERSONNEL, PATIENTS AND OTHERS

The ward upon which the fire occurred was occupied by disturbed and assaultive male patients, because of which fact there was increased difficulty in removing them to safety.

However, on the whole, there was little more excitement than would have been the case with normal individuals threatened as were the patients. There was no evidence whatever to indicate that any officer or employee was derelict in his duty. As a matter of fact, had not the officers and employees exhibited unusual devotion to duty, and in some instances heroic conduct, the loss of life would have been still greater. Special mention should be made of the conspicuous heroism of Lieutenant McDonough of Hook and Ladder Co. No. 26, New York City Fire Department, and another city fireman whose identity has not been definitely ascertained. Shortly after the New York City firemen arrived at the scene, two patients were seen at a barred window at the north end of the ward, whereupon a stream of water was played upon them until the two firemen mentioned, at great hazard to their own lives, succeeded in reaching the patients and removing them to safety. The State Hospital Commission has addressed a letter to the Chief of the New York City Fire Department calling his attention to the heroic action of Lieutenant McDonough and his companion, as it is certain the two patients would have perished, had not the firemen rescued them.

RECOVERY OF BODIES

The work of searching the ruins was started as soon as the ruins had sufficiently cooled to render it possible to do so. A number of bodies were recovered on the day of the fire, and additional bodies were recovered during succeeding days, the last one being recovered Tuesday, February 27. Of the bodies recovered, those of five patients and one employee were positively identified and claimed by relatives. The bodies of four patients and one employee were identified by reason of the location in which they were found, although the bodies were too badly charred for positive identification. Of the remaining fourteen unidentified bodies, several were recovered only in part, and all were in such a badly charred condition that positive identification was impossible. Such bodies will be buried by the authorities of New York City, as none of the

relatives of such patients or employees wish to bury bodies without positive identification.

RECOMMENDATIONS TO LESSEN FIRE RISK

The State Hospital Commission does not believe that any number of additional employees, or any amount of ordinary fire-fighting apparatus would have materially altered the tragic results of the fire. The one thing lacking was sufficient water supply, there being but a single water line to the building, as already mentioned. The Commission would therefore recommend and urge the installation of a high-pressure salt-water system for fire-fighting purposes only, with a pumping station in the hospital power plant, it thus being possible to provide an unlimited quantity of water in an emergency.

The necessity of replacing non-fireproof buildings for patients' occupancy, with modern fire-proof structures, is self-evident, as is also the necessity of relieving overcrowding through the provision of additional housing facilities at other hospitals. The Commission therefore hopes it may be possible to obtain sufficient funds to hasten the erection of additional fire-proof buildings for patients.

Respectfully submitted

(Signed) C. FLOYD HAVILAND, M. D.

Chairman.

ARLEIGH D. RICHARDSON.

Commissioner.

HARRIET MAY MILLS

Commissioner.

Recommending Payment of \$1,000 to the Families of State Employees Who Lost Lives in Fire at Manhattan Hospital

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 13, 1923.

To the Legislature:

At the recent fire in the Manhattan State Hospital on Ward's Island, three employees of the State lost their lives.

One of them leaves a widow and two small children. It has been the custom in many cases in the past to continue the salaries of deceased State officials for the balance of the year, and to pay the same to their families. These look to me like particularly worthy cases as the report of the State Hospital Commission shows that these men lost their lives in an effort to help the unfortunate wards of the State. Had they completed this year out they would have received in the neighborhood of one thousand dollars in salary. I think it would be no mistake if provision were made to pay the one thousand dollars to each of the families of the deceased men.

Respectfully submitted,

(Signed) ALFRED E. SMITH.

Recommending the Purchase of Land Adjoining Military Reservation at Peekskill

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, March 19, 1923.

To the Legislature:

Certain land adjoining the military reservation at Peekskill New York, had been used for a number of years for maneuvering the State troops and for rifle practice, without any compensation to the owners.

In 1921 it was deemed advisable to purchase this tract and it was offered to the State for \$150,000 cash. At that time, for reasons of economy, it was found that such an appropriation could not be secured, but instead, under Chapter 583 of the Laws of 1921 the Armory Commission was authorized to negotiate a lease for the premises which called for a rental of \$15,000 for 12 years with an agreement that at the end of that period the tract would be turned over to the State for an additional \$15,000, making the cost to the State \$195,000, instead of \$150,000, the extra \$45,000 being considered a reasonable amount to allow the lessors for interest. In addition, under the law referred to above, and under the lease entered

into pursuant to said law the State agreed to pay all taxes and assessments on the tract during the period of the lease, which taxes and assessments would amount to about \$10,000 for that period, thus making the total cost to the State \$205,000. It was later found that another party had an interest in a smaller tract of land which was not included in the law and lease referred to above but which was necessary for military purposes and the lessors purchased same at a cost of \$6,474, the lessors' understanding being, apparently, that later the State would reimburse them for this purchase. The lessors are now willing to sell the entire tract to the State, including the additional strip, costing \$6,474, for \$135,000, payable July 1, 1923. This will result in a saving to the State of \$44,874 as follows:

Purchase price of land as per Chapter 583 of the Laws of 1921 and as per lease and contract therein.....	\$205,000
Purchase price of additional strip.....	6,474
Total	<hr/> \$211,474
Deduct two years' rent and taxes paid by State	31,600
	<hr/>
Balance due and to become due on lease.....	\$179,874
Price at which land may be purchased now...	135,000
	<hr/>
Saving to the State.....	<hr/> \$44,874 <hr/>

To my way of thinking, nothing could be more ridiculous than to have the great State of New York buying property on the installment plan and giving to the owners what practically amounts to a bonus of \$55,000 in order to keep down the size of an appropriation bill. It is false economy and poor business. I recommend that the State take advantage of the offer of the owners and promote real economy by saving to the taxpayers \$44,874.

(Signed)

ALFRED E. SMITH

Recommending Appropriation of \$740,000 for Completion of Hydro-Electrical Plants at Vischers Ferry and Crescent Dam and Suggesting That Superintendent of Public Works, State Engineer and Surveyor and Attorney-General be Empowered to Negotiate With Municipalities for the Delivery of Power at Cost to the State for Ultimate Delivery to Consumers

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 19, 1923.

To the Legislature:

By Chapter 532 of the Laws of 1922, one million dollars was appropriated for the construction of hydro-electrical plants for the development of electrical energy from the surplus waters of the Barge Canal at Crescent Dam and Vischers Ferry.

I am informed by the Superintendent of Public Works that substantially all of this amount is either spent or obligated, and only about \$3,000 remains unexpended. With this appropriation, a plant of two units, capable of developing 8,000 horse-power during 60 per cent. of the time, is completed with the exception of that part of the plant known as the tailrace, without which, of course, the plant cannot operate. To complete this plant, it is estimated that an additional \$30,000 will be necessary.

At Vischers Ferry, the present construction from the original appropriation will give us only the foundation without buildings and without equipment of any kind. The Superintendent of Public Works and the State Engineer certify to me that \$710,000 will be required to complete the building operation and installation of the equipment at this plant.

The Act making the original appropriation made no provision whatever for transmission of the electrical energy and provided only that it be sold to the highest bidder. This, I am informed, leaves the State at the mercy of two existing power companies, not likely to compete against each other.

I am further informed that no operation can be looked for before the full completion of both plants, which will take another year. I would, therefore, suggest that the above mentioned amounts be appropriated for the completion of both plants.

I suggest also that the law be amended so as to provide for a delegation of power to the Superintendent of Public Works, the State Engineer and the Attorney-General, to negotiate with the municipalities within the Capitol District for the delivery of this power to such municipalities at cost to the State for ultimate delivery to consumers. This is in accordance with the policy I have already outlined to your Honorable Body requiring that electrical energy developed by the State upon State property and from State resources be made available to the people themselves at the lowest possible price.

In view of the fact that the power development at these points, according to the estimates of the engineers, is available for only 60 per cent. of the time, it might be well also to charge the officials mentioned in the message with the duty of negotiating with the municipalities for auxiliary power generated by the municipalities themselves or possibly by the State, in order that there may be sufficient firm power at all times to meet the requirements of the users of electrical energy in the Capitol District.

(Signed) ALFRED E. SMITH.

Recommending Passage of Constitutional Amendments Reorganizing State Government and Transmitting Chart Illustrating Plan of Statutory Consolidation

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 21, 1923.

To the Legislature:

In my Annual Message I said that the present form of the administration of the State government is responsible to a great degree for the high cost of our State government. I also said that

"At the head of the specific recommendations to your Honorable Body, I place the constitutional amendment reorganizing the present ramshackle government of this State. These amendments call for, first, the reduction of the elective State officers to three: the Governor, the Lieutenant-Governor, and the Comptroller, who shall be an independent auditor without administrative functions, and for a four-year term for these three elective officers; second, for the reduction of State departments to nineteen, each representing a major administrative activity and for consolidation of administration and inspection of institutions; and third, for an executive budget system which will place upon the Governor the responsibility of initiating the budget. These amendments are based upon principles now thoroughly understood and almost universally recognized."

Under date of February 26th, I again addressed your Honorable Body on the subject of consolidating by statute certain departments, bureaus and independent State agencies. These consolidations are in no sense a substitute for the fundamental reorganization contemplated by the Constitutional amendments but are only preparatory for the final changes that are to be accomplished.

In order that you may readily apprehend the changes proposed and to facilitate your consideration of them, I have had prepared the accompanying chart which graphically illustrates the whole plan.

(Signed) ALFRED E. SMITH.

STATUTORY CONSOLIDATION OF SCATTERED STATE DEPARTMENT

STATE OF NEW YORK — EXECUTIVE CHAMBER

February 26, 1923.

To the Legislature:

"My present message has for its purpose the recommendation of changes which can be made as soon as your Honorable Bodies pass the necessary legislation. ***By adopting these recommendations and passing the bills submitted to you in connection therewith, about one hundred of the present state agencies which are financially or administratively independent will be brought into some kind of coordination with the major state departments. ***No business institution in the country could long survive if it attempted to carry on its business the way the State of New York is trying to do it. The surprise to me is that we are doing as well as we are in view of the scattered, loose-jointed, disorganized system under which we are struggling along."

ALFRED H. SMITH,

Governor.

<p>Motion Picture Commission.....</p> <p>Board of Port Wardens.....</p> <p>Harbor Masters.....</p> <p>Commission on State and Federal Taxation.....</p> <p>Salary Classification Commission.....</p> <p>Commission to Examine Feeble-minded.....</p> <p>Commission on West Side Improvements.....</p>	<p>Abolish.....</p>	<p>Supreme Court Reporter.....</p> <p>Board of Estimate and Control.....</p> <p>Prison Commission — As now constituted and four appointive Members.....</p> <p>Probation Comm.....</p>
<p>Miscellaneous Reporter.....</p>	<p>Reporting Opinions.....</p> <p>State Department.....</p>	<p>State Tax Commission.....</p> <p>Secretary of State.....</p> <p>Board of Estimate and Control.....</p> <p>State Architect.....</p>
<p>Parole Board.....</p>	<p>Functions Transferred.....</p>	<p>Department of Public Works.....</p> <p>(Superintendent of Public Works)</p>
<p>Probation Commission.....</p> <p>Board of Equalization.....</p> <p>Commission to Examine Voting Machines.....</p> <p>Sites, Grounds, & Buildings Commission.....</p>	<p>Functions Transferred.....</p>	<p>State Tax Commission.....</p> <p>Secretary of State.....</p> <p>Board of Estimate and Control.....</p> <p>State Architect.....</p>
<p>Highway Department.....</p> <p>Interstate Bridge Commission.....</p>	<p>Bureau of Highways.....</p> <p>(Highway Commissioner)</p>	<p>Department of Public Works.....</p> <p>(Superintendent of Public Works)</p>
<p>Public Works.....</p> <p>Boundary Waters Commission.....</p> <p>Comms. of River Regulating Districts.....</p>	<p>Bureau of Canals and Water Control.....</p> <p>(Assistant Superintendent of Public Works) (with responsibility for canal water power development).....</p> <p>Bureau of Architecture and Housing.....</p> <p>(State Architect) (To embody new activity of housing and building operations).....</p>	<p>Department of Public Works.....</p> <p>(Superintendent of Public Works)</p>
<p>State Architect.....</p>	<p>(To embody new activity of housing and building operations).....</p>	<p>Department of Public Works.....</p> <p>(Superintendent of Public Works)</p>
<p>Department of Public Buildings.....</p> <p>Trustees of Public Buildings.....</p>	<p>Bureau of Public Buildings.....</p> <p>(Superintendent of Public Buildings).....</p>	<p>Department of Public Works.....</p> <p>(Superintendent of Public Works)</p>

STATUTORY CONSOLIDATION OF SCATTERED STATE DEPARTMENTS — *Concluded*

Raybrook Hospital.....			
Crippled & Deformed Children Institute.....			
Malignant Disease Institute.....			
	Functions Transferred	{ Division of Tuberculosis.....	{ Department of Health
	Retain Trustees.....	{ Bureau of Child Hygiene.....	{
		{ Bureau of Malignant Disease.....	{
Nautical School — Retain present Board of Governors.....	Functions Transferred.....		Commanding Officer—Naval Militia
Agricultural Experiment Station — Geneva.....			
State Army Commission.....	Abolish Trustees.....		
Women's Relief Corps Home — Retain present trustees.....	Functions Transferred.....		{ State College of Agriculture
Soldiers' Sailors' Home — Retain present trustees.....			{ Cornell University
State Monument Commission.....			
Meagher's Irish Brigade Commission.....	Transfer Functions.....		The Adjutant General
Supervision of Appropriations — G. A. R. and U. S. W. V.....			
Hospital Development Commission.....	Transfer Functions.....		{ State Architect
			{ Board of Estimate and Control

The interests of the State concerning the blind, deaf and dumb are represented by the State Commission for the blind, the State Board of Charities, and in case of Batavia School by the local board of Trustees. The Education Department now has educational supervision over blind, deaf and dumb in state and private institutions receiving state aid and designates certain children to be educated at state expense, appropriations being made directly by the Legislature. There is no central state responsibility for the problem as a whole.

To be responsible for registration, education, training, employment and general care of the blind, deaf and dumb, and submit estimates to Legislature for state and private institutions.

<i>Blind</i>	
State Commission for the Blind.....	
School for the Blind — Batavia.....	
State Aid — Blind.....	
Private Institutions.....	
Catholic Institute for Blind — Bronx Children.....	
International Sunshine Society for care of blind.....	
<i>Deaf and Dumb</i>	
New York Institute for Education of Blind.....	
State Aid — Deaf and Dumb.....	
Central New York Institution Deaf Mutes — Rome.....	
Albany Home School for Oral Instruction of Deaf.....	
New York Institution for Instruction Deaf & Dumb.....	
Institution for Improved Instruction of Deaf Mutes — New York City.....	
Le Couteux St. Mary's Institution for the Improved Instruction of Deaf Mutes—Buffalo.....	
Northern New York Institution for Deaf Mutes Rochester School for the Deaf.....	
St. Joseph's Institute for Improved Instruction of Deaf Mutes.....	

Indians

Thomas Indian School.....
 Agent for the Onondaga Indians.....
 Agent for the Onondaga Indians on the Allegany,
 Cataraugus, Tuscarora and Tonawanda Reser-
 vations.....
 Attorney for the St. Regis Nation of Indians.....
 Agent for the Seneca and Tonawanda Nations.....

Secondary—*Agricultural and Vocational Schools*
 Agricultural & Industrial School—Industry.....
 School of Agriculture—Alfred.....
 School of Ceramics—Alfred.....
 Institute of Applied Agriculture—Farmingtondale..
 Morrisville School of Agriculture.....
 Cobleskill School of Agriculture.....
 Delhi School of Agriculture.....

Supreme Court Libraries.—*Appel. Div. Libraries*
 Brooklyn 1st Dept. New York city
 Long Island City 2d Dept. Brooklyn
 Riverhead 3rd Dept. Albany
 Hudson 4th Dept. Rochester
 Kingston.....
 Troy.....
 Monticello.....
 Saratoga Springs.....
 Plattsburg.....
 Utica.....
 Watertown.....
 Binghamton.....
 Delhi.....
 Elmira.....
 Norwich.....
 Buffalo.....
 Newburgh.....
 Poughkeepsie.....
 White Plains.....

Board of Geographic Names.....
 Board of Embalming Examiners.....

The various Indian affairs are now under the jurisdiction of the Department of Education, the State Board of Charities, Commissioners of the Land Office and other agencies. No central state supervision....

Now virtually independent of any central state authority—supervised by local boards of trustees, who get funds direct from Legislature. Educational Department and Department of Farms and Markets now have slight supervision over activities.

Now under supervision of Judges or Boards of Trustees appointed by the Governor....

Entire supervision and control of all Indian matters.

Supervision and control of secondary vocational and agricultural schools

Supervision and budget control of Supreme Court Libraries now supported by state funds without disturbing local trustees.

*Transfer Functions to
 Department of Education*

STATE PARKS AND PLACES OF SCENIC, SCIENTIFIC AND HISTORIC INTEREST

Allegany State Park.....
American Scenic & Historic Preservation Society.....
Battle Island Park.....
Bennington Battlefield Reservation.....
Bronx River Parkway Reservation.....
Chittenango Falls Park.....
Clark Reservation.....
Clinton House — Poughkeepsie.....
Crown Point Reservation.....
Enfield Falls Reservation.....
Fire Island State Park.....
Fort Brewerton.....
Grant Cottage — Mt. McGregor.....
Guy Park House.....
Herkimer Home.....
John Boyd Thacher Park.....
Lake George Battlefield.....
Letchworth Park.....
Lester Park.....
Montcalm Park.....
Newtown Battlefield Reservation.....
Niagara Reservation.....
Palisades Interstate Park.....
Phillips Manor House — Yonkers.....
Roosevelt Memorial.....
Saratoga Monument.....
Schuyler Mansion.....
State House — Kingston.....
Sir William Johnson Mansion — Johnstown.....
Spy Island.....
Squaw Island.....
Starks Knob.....
Stony Point Reservation.....
Temple Hill — Newburgh.....
Washington's Headquarters.....
Watkins Glen Reservation.....

"These properties are scattered around under every possible kind of supervision. Some of them are under the American Scenic and Historic Protective Society and the New York Historical Society and others are under the Department of Education, the Superintendent of Public Works, the Comptroller and the Trustees of Public Buildings. In order to make some start in the direction of unified planning and central direction of state parks I am sending to you a bill which provides for the establishment in the Conservation Commission of a State Park Council." (Special Message to Legislature, February 26, 1923.)

In Conservation Commission:
Establish State Park Council.
 Conservation Commissioner to be Ex-officio
 Chairman.....
 Council to comprise heads of:
 Palisades Interstate Park.....
 Allegany State Park.....
 State Reservation at Niagara.....
 American Scenic and Preser. Soc.....
 Director State Museum.....
 Roosevelt Memorial Park.....
 Finger Lakes State Park Comm.....

To prepare budget for all park properties excepting those under Conservation Commission — budget finally agreed upon by majority vote of Council to be included by Conservation Commissioner in his estimates. Report annually to Governor and meet every other month to discuss problems of management.

Recommending Reorganization of the Department of Farms and Markets

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 26, 1923.

To the Legislature:

In accordance with the promise made in my Annual Message to communicate with you again in relation to the agricultural policy of the State, I have carefully considered the subject and sought to confer with the many interests involved. Thoroughly mindful of the important part our agricultural industries play in the prosperity of our State, I am at all times eager to serve them and also to promote the interests of the consumers.

Everything connected with the subject in this State has had to undergo a slow process of eliminating confusion and gradually bringing many scattered powers into a unified department. It is significant that the whole history of the department points to a series of well-intentioned attempts to unify the activities comprehended in the production and distribution of food.

After legislative investigation, the Department of Farms and Markets was set up in 1917 to deal with the production of food and its marketing. No attempt to discuss the subject of agriculture which confines itself to production exclusive of marketing could be adequate. In fact, the early organization of the department recognized this when it was divided into two parts, a Division of Agriculture and a Division of Foods and Markets.

Somehow or other the agricultural interests of the State have always seemed to believe that the functioning of this department belongs peculiarly and particularly to them, and persuaded the Legislature that there should be established over the department a regency similar to that which exists in the Department of Education. As a result, a Council of Farms and Markets was created, composed of eleven members elected by the Legislature and representing the nine judicial districts

of the State. This council had administrative and executive functions. The attempt to keep all agricultural interests strictly under the control of their own representatives is almost like the establishment of an agricultural Soviet.

An analogy to this condition might be found if the labor interests of the State were to assert that the Labor Department belonged exclusively to them and was established solely to protect their interests, and was administered by a regency composed of representatives of the labor organizations and a labor commissioner chosen by and representing their organizations exclusively, or that we might erect a regency over the Banking and Insurance Departments of the State that would permit them to control the departments that regulate them. In the same degree as this would be resented by all of the other industrial interests of the State, it is my feeling that the Department of Farms and Markets is not intended merely to protect the interests of the producing agriculturists. On the contrary, the very fact that it deals with markets, means that the consuming public as well as the producers are entitled to the service and protection which such a State organization can give.

After an investigation by a commissioner appointed by me in 1919 under the Moreland Act, I recommended that the Council of Farms and Markets be abolished. In his report the commissioner clearly showed the inadequacy and inefficiency of the department as administered by the Council of Farms and Markets, but the Legislature refused to abolish it. It was not until 1921 that the Legislature agreed to curtail the administrative functions of the council, but still refused to abolish it. The sole function of this regency now is to appoint the Commissioner of Farms and Markets and to act in an advisory capacity.

Recognizing that a house divided against itself cannot long continue to stand, the Legislature, also, after repeated suggestions from me, finally under my predecessor reorganized the department to the extent of abolishing the two divisions of Agriculture and Foods and Markets, hitherto separately conducted in the department, consolidated them and placed a

single commissioner in administrative control, appointed by and responsible to the Council of Farms and Markets.

Carrying further my thought that a Department of Farms and Markets cannot be considered solely from the point of view of the producer, I wish to point out that your Honorable Body has from time to time passed legislation of the deepest significance both to producer and consumer, and which is apparently in no way directly connected with the Department of Farms and Markets. The legislation establishing the Port of New York Authority, the policy of building durable roads, and the greatest possible utilization of the Barge Canal facilities, are all closely interwoven with service to the producer and the consumer. The producer is served by facilitating the progress of his produce from the farm to the market, and the consumer is benefited by the lowering of costs of transportation and distribution, secured by better transportation facilities.

I cannot bring myself to look upon this department as in any way entitled to be under the protection of a single group in the community, and its history thus far convinces me that my view is a correct one. Both consumers and producers have had occasion to find fault with the department. The laws under which it operates and the far-reaching powers it possesses, ought to make it possible to solve many of the fundamental causes of the high cost of living, but I have yet to find that these powers have been adequately and effectively exercised by the existing department so as to give the maximum protection to these two elements in the community.

Take, for instance, the matter of indemnities for slaughtered cattle. There has been no policy and I think I am safe in saying that there is no policy at present for dealing with this subject, beyond paying out money apparently without policy or program. This has resulted in the State having to face a deficiency of \$2,500,000 of money due in payment for slaughtered cattle. No one believes more strongly than I in the reduction of tuberculosis among cattle, for the protection of public health. I do not need to reiterate my interest in the protection of public health, but there are ways and ways of

accomplishing the eradication of bovine tuberculosis. To run up a bill of something over \$2,500,000 for the State to pay and also to look forward to the appropriation of a sum equivalent to that amount for another year, and simply to continue paying out this money blindly, without any attempt to reach causes or stem the progress of the disease, other than the slaughtering of the cattle whenever the official of the department has been sent for, seems to me nothing short of wasteful, to say nothing of its being futile. The same absence of policy was commented on by the Legislative Committee Minority Report in 1922.

I could readily point out to you in detail shortcomings of the department and suggest remedies. But that would be useless. Neither the Commissioner nor the Council of Farms and Markets needs to accept any suggestions made by me so long as they are not responsible to me. I cannot and I will not assume any of the responsibility for the conduct of this department so long as it is, as at the present time, by law unresponsive to any program or policy of the Executive. It must necessarily be so as long as the Council of Farms and Markets appoints and removes the head of the department, and so long as only the Legislature has power to appoint and remove the members of the Council of Farms and Markets.

Before any progressive step can be taken or any policy initiated looking toward the improvement of the condition of the producer or consumer, responsibility should be centered in this department as it is in every other department of the State, with the exception of the Department of Education—in the Executive.

The Council of Farms and Markets should be abolished or retained in advisory capacity only, and the Governor should appoint and remove, by and with the consent of the Senate, the Commissioner of Farms and Markets.

When the improvements in transportation facilities contemplated by the Port of New York Authority are further developed, and when the Vehicular Tunnel between New York and New Jersey is completed, the great marketing center of the East will be vitally affected. Almost the first commodities

to feel the effects of this great development will be food products. New York is, of course, the primary market which establishes food prices for at least all of the eastern part of the country. The farmer and the consumer guide themselves by the prices which prevail at that market. Some part of the excessive price which the consumer pays in the New York market is due to the heavy cost of transportation throughout the territory embraced in the Port district. The farmer does not receive the benefit of this extra charge. In fact, he suffers by the delays and high prices incident to the complicated and duplicating system of transportation prevailing there. He loses much of the goods consigned there, and is not compensated for his loss.

Improved methods for delivery and marketing established in this great center will mean greater returns for the farmer and a greater volume of produce actually reaching the market in time for consumption while it is still in good and salable condition. Rapid delivery along all of the great avenues of transportation into this district is bound to effect a change in the market favorable both to the producer and consumer.

The department should be deeply concerned with all of these matters. It should also be developing a well defined policy in relation to cooperative producers' associations, as well as consumers. It should have a clear policy on the production and distribution of milk and also those dairy products incident to the production of milk. I have yet to discover in the department anything but a selfish interest in these principal products of our agricultural industry, and when consumers complain and producers protest, the most an Executive can do is to indicate his helplessness until a fundamental change is brought about. The whole question of the cost to the ultimate consumer and the amount paid to the producer is being discussed in practically every State in this Union. The conditions existing today among the farmers are not calculated to promote the business health of the country. New York being the Empire State should blaze the way to some solution of this condition along intelligent business lines.

Once again I urge upon you the careful consideration of this essential change, and I feel sure that you will never

regret placing the responsibility for the administration of this department where it belongs — in the hands of the Executive.

(Signed) ALFRED E. SMITH.

Recommending Extension of Provisions of Chapter 949 of
Laws of 1920 Exempting New Buildings From Local
Taxation

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 28, 1923.

To the Legislature:

During a special session of the Legislature called by me in 1920 a law was enacted permitting counties, cities, towns or villages to exempt new dwellings from taxation for local purposes during a period of years.

Like the rent laws, the purpose of this legislation was to meet a dangerous crisis in the housing situation. While the emergency rent laws were intended to check immediate extortions made possible by the failure of housing facilities to meet the growing demands, the tax exemption statute was designed to stimulate building by partly equalizing the high cost of construction due to increases in the cost of building material and labor.

The emergency rent laws still have nearly a year to run. The time within which new houses must be commenced in order to enjoy benefits under the statute, unless extended by the Legislature, will expire on April first.

No one disputes that home building has been greatly stimulated in communities which have seen fit to act under the permissive terms of the statute. In New York City there has been unprecedented building activity. Costs, however, continue very high and the housing supply is still far from adequate.

Any sudden falling off of building operations at this time would tend to renew the very conditions with which the State had to deal so heroically in 1920 and might necessitate an indefinite extension of the rent laws,

For these reasons I recommend that the time within which new construction under this statute must be commenced, be extended for one year.

Although the constitutionality of the law is at the present time in question, its validity will not be finally determined until passed upon by the higher courts. In the meantime, confusion and delay may be avoided by amending the act so that it will be kept alive, should the higher courts sustain it.

We had a parallel situation when the emergency rent laws were first enacted. Their constitutionality was questioned but their operation continued beneficently while the court procedure went on for several months until the Court of Appeals and finally the United States Supreme Court upheld them.

Within a short time I shall take the privilege of making further recommendations in regard to the housing problem. Preparations should be made for such an official study of the subject that authoritative information and advice on this and the subject of all the emergency housing legislation will be available to the Legislature at its next session.

(Signed) ALFRED E. SMITH.

**Transmitting Report of General George W. Goethals, State
Fuel Administrator**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 5, 1923.

To the Legislature:

I am transmitting herewith for your information the report of General George W. Goethals, appointed Fuel Administrator by me on January 9, 1923.

I desire to have the report made part of the record and with it the expression of my sincere gratitude, speaking for the State itself, to General Goethals for his careful, capable and painstaking service to our people in a time of distress.

(Signed) ALFRED E. SMITH,

REPORT OF GENERAL GEORGE W. GOETHALS
NEW YORK STATE FUEL ADMINISTRATION

165 BROADWAY, NEW YORK

March 31, 1923.

*Hon. Alfred E. Smith, Governor of the State of New York,
Albany, N. Y.:*

SIR.—On leaving the office of the New York State Fuel Administrator, it seems pertinent to place on record certain facts concerning the coal situation as they were developed by the emergency, which may be of use in case similar condition should occur again, as well as the organization and methods of operation employed, as they may be of some value under such a contingency.

Bituminous coal is mined extensively throughout the United States. The mines are worked, some by union and some by non-union labor, so that it would be difficult to stop all bituminous coal production through a strike, especially as the supply of labor in the bituminous fields is greater than the demand. On the other hand, the anthracite coal fields are restricted in extent, must be operated continuously in order to meet the ever increasing demand and only union labor is employed. Therefore, when the strike was threatened last Spring, it was evident that if it occurred the entire anthracite production would cease and the supply of domestic fuel for a large section of the country would be endangered. Since New York State is one of the largest consumers of domestic sizes of anthracite, it was especially interested, as its coal supply was seriously threatened.

When the strike was called, on April 1st, the production of bituminous coal proceeded in the non-unionized mines when not interrupted or interfered with, but all mining ceased in the anthracite fields. This caused little concern at the time, for, when it became known that the coal strike could not be averted, assurances were given through the public press that the Federal authorities would step in and, by exercising all the powers of the Government, would keep the country sup-

plied with its fuel, the New York Times of March 25th, 1922, stating: "The administration has no idea of waiting to act until there is an actual fuel shortage." The strike continued, however, from April 1st to September 11th, 1922, five and one-half months, so that a serious situation was created, not only for the State of New York, but for all other sections of the country where anthracite coal is used extensively.

Recognizing the serious condition that confronted the people of the State, the Governor, after a visit to Washington, called the Legislature in special session and the New York State Fuel Law was enacted under date of August 29, 1922. The law created the office of State Fuel Administrator and vested him with full authority "to supervise, regulate and control the receipt, storage, purchase, sale, use, distribution and delivery of fuel;" to prevent profiteering; to insure proper standards and grades of coal; and to bring about an equitable distribution within the State. The State Fuel Administrator had at all times the support and cooperation of the Governors of the State and other State officials.

On September 20, 1922, by proclamation, the Governor of Pennsylvania created the State Fuel Commission, which organized the Fair Practices Committee for the purpose of determining the fair price of coal at the mines.

A meeting was held in Philadelphia on September 21, 1922, attended by the Fuel Administrators of various States and the Anthracite Operators' Committee, out of which committee grew the Anthracite Bureau of Distribution. It was decided at that meeting that, because of the cessation of operations at the mines for so long a period, the various communities throughout the country using anthracite coal could be allowed only between 50 per cent and 60 per cent of their consumption during the previous year, that is, from April 1, 1921, to April 1, 1922, and the allotments were to be handled by the Bureau of Distribution during the emergency period.

The Federal Government, through the Act approved September 22, 1922, declared a national emergency in production, transportation and distribution of coal and created the office of Federal Fuel Distributor, but failed to clothe him with

authority. It vested in the Interstate Commerce Commission, a quasi judicial body, certain powers governing the distribution of fuel and profiteering. The situation, therefore, was rather anomalous; an Administrator for New York State, vested with powers providing for any contingency likely to occur, but necessarily limited to its geographic confines; the Federal Fuel Distributor without authority; and a quasi judicial body, not accustomed to executive action, for movement of coal and to guard against profiteering; distribution and price fixing controlled by Pennsylvania; all handling the same situation; a national one.

The State Fuel Administrator had no jurisdiction over the handling of fuel until it crossed the border into the State. Even then, there was no authority to divert coal billed to a destination to help out another community which might be in greater need, to order the speeding up of tardy shipments enroute to the State, to fix prices or to bar out coal of poor quality. In these ultra State matters the Fuel Administrator's only recourse was to appeal either to the Pennsylvania or Federal authorities, or to both, neither of whom possessed the requisite authority to accomplish the results desired, and appeals were passed from one to the other and returned to their origin or died somewhere enroute without any action being taken upon them.

The emergency, a serious one, had resulted from the continuance of the strike for so long a time, was not limited to any one state, but was nation wide, and should have been handled by the Federal Government, through an Administrator vested with the requisite powers to fix price, effect distribution and to inspect coal prior to shipments.

Upon the passage of the law, Mr. William H. Woodin was appointed State Fuel Administrator. He decided to handle the emergency by an organization similar to that in effect during and subsequent to the World War, functioning in much the same way. He appointed Mr. Harry T. Peters Assistant State Fuel Administrator, whose experience in the Federal Fuel Administration and wide knowledge of coal matters eminently qualified him for the position. He also appointed

an Advisory Committee. Each of the Judicial Districts in the State was placed in charge of a District Fuel Administrator, with County Administrators as assistants, one for each county in the district.

Distribution was effected through the various coal dealers, who thereby became part of the Fuel Administration, and to their credit be it said that by far the great majority cooperated and played fair; the position was a difficult one, since public service and private interests were often brought into conflict. The dealers were obliged to secure their coal from their regular sources of supply and, for obvious reasons, were required to serve only their regular customers. Some hardship and discrimination resulted, for, with the large amount of building during the spring and summer of 1922 in some of the communities of the State, a number of new householders were not customers of any dealers, a condition which the local Administrator had to handle, and, through failure so to do at the outset, justly caused trouble and much complaint.

Few general orders were issued, for conditions varied in different parts of the State, and the District Fuel Administrators were in a better position to cope with the situations as they arose. The District Fuel Administrators were vested with all the authority necessary to handle any contingency that might arise and were unhampered by the main or central office.

Upon the resumption of mining operations, with no reserve at the mines and little stored in the cellars of the consumers due to the fact that but few of those who lay in their winter supply during the summer months had done so, hoping for lower prices, the dealers were besieged with orders. Distribution, to be equitable, had to be controlled, and the dealers were not permitted to deliver coal in excess of two weeks' requirements of any customer. Recognizing the fact that the shortage of 40 per cent of anthracite would have to be made up in some way if the people were to be kept warm, domestic sizes of anthracite were denied for heating all large buildings, churches, schools, theatres, etc., and dealers were required to furnish the householder a certain percentage of pea, buck-

wheat, bituminous coal, coke or wood in the case of all deliveries of two tons or more. Difficulty was experienced in securing full compliance, and in most communities where shortages were reported or crises threatened, investigation disclosed that such conditions were due to non-compliance with this order.

The law authorized the Fuel Administrator to fix prices, but this could not be done. "Company coal," or that furnished by the large operating companies, was supplied at the mines for a maximum of \$8.50 per ton. About 75 per cent of the coal reaching New York came from these sources. All the anthracite possible was needed to meet the emergency and coal from the smaller or independent companies was also used. The prices of "independent coal" varied from \$9.25 to \$13 at the mines; about 20 per cent was at the \$9.25 price, the remaining 5 per cent went to the higher price. Some dealers handled only "independent coal," some handled "company coal" and some received their supply from both sources. "Company coal" was supplied directly to the dealers; "independent coal" was at times sold through brokers, thereby increasing the price to the dealer, hence to the consumer. Under the circumstances, the only course for the Administration to follow was to limit the dealer's profit to about the same margin that he received before the emergency.

This variation in price was the cause of many complaints and general discontent on the part of the consumers but could not be avoided in view of the way in which the Federal Government allowed the national emergency to be handled. The complaints received on the score of the prices charged were all investigated by having an audit made of the books of the dealers complained of and, where unfair profits were disclosed, a reduction in price was insisted upon and restitution made. If the cost at the mines seemed excessive, the facts were reported to the Fair Practices Committee.

The variation in price caused the establishment of the "Peddler Pool," originally the idea of Mrs. William Randolph Hearst, and which had worked out so successfully during the war period for the relief of the poorer section throughout New York City.

On September 19, 1922, Mr. John F. Bermingham, president of the Delaware, Lackawanna & Western Coal Company, organized the Anthracite Committee, which supplied the coal. Stations were located in the yards of various dealers throughout the city, where coal in 100-pound lots could be purchased for 70c and where peddlers were supplied with coal for resale to customers direct or through the coal cellars. The price in each instance was fixed and this, together with the weights, was carefully looked after through the Police Department and the Bureau of Weights and Measures. From October 27, 1922, to March 28, 1923, inclusive, 422,979 gross tons, particularly chestnut coal, were received by the Peddler Pool.

Early in January, 1923, the allotment for Greater New York was much in arrears; advantage had been taken of tax exemption granted for new housing facilities, which resulted in extensive building in Brooklyn, the Bronx, Queens and some parts of Long Island, no increase of allotments could be secured and a crisis confronted the Fuel Administration. Appeal was made to Mr. Bermingham, with the result that followed every call for help that was made on him. He used his Anthracite Committee and handled the situation by allotting "Emergency Coal" to dealers in the different boroughs secured from various operating companies, thus saving the situation. Emergency allotments were carried on until the end of the administration. From January 5th to March 28th, 1923, 125,925 gross tons of emergency coal were delivered.

Mr. Bermingham and his Anthracite Committee are to be commended for the public spirited way in which they came to the relief of New York City during the emergency.

In addition to coal supplied through the Peddler Pool, the Mayor's Committee of Women, of which Mrs. William Randolph Hearst is president and Mrs. Nelson Herrick Henry is secretary, and whose executive committee consists of Mrs. George W. Loft, Miss Sophie Irene Loeb, Miss Elizabeth Marbury and Miss Sarah Graham Mulhall, cooperated with the State Fuel Administration by supplying coal to charity cases. In all, 9,000 free coal certificates, good for 100 pounds

each, were issued by the Mayor's Committee of Women, and in addition 75 tons of coal were distributed free from coal emergency stations in Brooklyn and Manhattan through the various welfare organizations, irrespective of race, creed or politics affiliated with the committee.

Early in January, 1923, Mr. J. M. Lonergan, Chief Supervising Inspector of the Health Department, was assigned to the State Fuel Administration by Health Commissioner Royal S. Copeland, and established a branch in the office of the State Fuel Administrator to take charge of the issuance of priority coal certificates for relief of the emergency appeals involving sickness. From January 10th to March 28th, 1923, 14,235 complaints were received by this Bureau, which were investigated by the Police Department, and against them 11,223 emergency orders were issued. Relatively few complaints emanated from Manhattan and the Bronx and, after January 18, 1923, when a Fuel Administrator was appointed for Queens, complaint from that borough decreased. Emergency orders for similar cases were issued throughout the State by the local Fuel Administrators.

A certain amount of so-called "fireproof coal" reached the State of New York and was delivered to consumers. Complaints from this cause were investigated and where the quality of coal was bad, the dealer who furnished it was required to remove it from the premises and either make a refund or supply coal of good quality. The sources of supply in these cases were ascertained and reported to the authorities of Pennsylvania or Washington. In some instances it was found that the coal was received from irresponsible parties; in some the parties had left the State. One case of an operator furnishing poor coal was passed upon by the Interstate Commerce Commission which, after a conference, decided that the subject could not be dealt with by regulation or by denying interstate transportation, but through the enforcement of criminal or civil laws of the State of Pennsylvania.

The fuel situation was complicated somewhat by the shopmen's strike on the railroads, which threatened seriously to interfere with the movement of coal. The result accomplished

by the railroads, however, from October 1, 1922, to March 1, 1923, as shown by the latest records which I have, indicate that a larger amount of coal was handled during the past winter than during the corresponding period of the two previous years, with the exception of the Delaware & Hudson, which moved less in 1922-1923 than in 1921-1922, and the Philadelphia & Reading, which moved less in 1922-1923 than in 1920-1921,—this, notwithstanding the strike and the greater severity of the winter.

The railroads cooperated in every possible way with the Fuel Administration and succeeded frequently in relieving critical situations. The American Railways Association materially assisted in getting cars through to destination through its representatives, W. J. McGarry assigned to this office, and A. P. Stevens at Saratoga Springs. The organization handling the emergency in New York State during the last winter would have been strengthened and better handling of coal secured had it included such representation from its inception.

I succeeded Mr. Woodin on January 11, 1923, through whose intercession the personnel of the organization which had been built up continued in office, and whose policies and methods were followed through to the end. Whatever has been accomplished since is due to what I inherited both as to organization and personnel.

In closing, acknowledgment must be made of the support accorded by the Governors of the State, the Treasury officials and the Attorneys General, with their assistants.

Acknowledgment is also made of assistance rendered by the Mayor of the City and the various departmental heads of the City Government, especially: Dr. Royal S. Copeland, Commissioner of Health; Hon. Richard E. Enright, Police Commissioner; Hon. Grover Whalen, Commissioner of Plant and Structures, and Hon. Joseph J. Holwell, Commissioner of Weights and Measures.

Respectfully,

(Signed) . GEO. W. GOETHALS,
State Fuel Administrator.

**Recommending Legislation to Safeguard Public Health in
Rural Communities and Measures Tending to Suppress
Narcotic Drug Evil**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 11, 1923.

To The Legislature:

Actively relating public health to the welfare of the State is a development of recent years. Prior to 1913 the State was without a field force for the enforcement of a sanitary code and public health was largely a local function, the State doing little more than gathering statistics and supplying information to localities. If we can uphold the State Department of Health in meeting its problems with vision and foresight, we will place this State in the forefront of intelligent public health service to its citizenship.

During my last administration, the Reconstruction Commission made an exhaustive study of public health problems, as a result of which many constructive recommendations were carried out with the cooperation of the Legislature and the State Department of Health. One important phase of public health which has forced itself increasingly on our attention and is still unsolved, because the difficulties in meeting it offer so many complications, is the scarcity of medical service in rural communities.

Sickness is no respecter of geographical location, and tragic conditions prevail in the more sparsely settled areas of the State where, especially in the winter months, it is difficult for physicians to go. Pneumonia, influenza, maternity, contagious diseases, take their toll under pitiful circumstances in farm houses while the city dweller, however poor or unfortunate, has hospitals and nursing services at hand and never need experience the suffering caused by the lack of adequate medical and nursing care that now falls to the lot of some parts of our farm population. Personal poverty is not the cause. Inaccessibility in winter months—the physician asked to see

three or four patients, with widely scattered areas between each home, meaning long drives over roads almost impassable with snow and ice—and a dwindling farm population insufficient to support a physician, are the generally prevailing causes.

Statistics gathered by the State Department of Health would indicate that the number of physicians is decreasing in rural districts as is also the population, but the two are not proportionate and it is admitted on all sides that it is necessary to find some method for securing and retaining adequate medical service.

This situation has forced itself on our attention year after year. It being a medical problem, it seemed to me that the physicians of the State should be called in to assist me to find a solution, especially as they have objected to solutions heretofore suggested, and I, therefore, asked them to confer with me in February on this and several other medical subjects.

The conference was attended by the leading medical men of the State and a committee was appointed to report to me their suggestions on rural health and other problems discussed. These men, in their report to me, say that "It is undoubtedly true that in a certain small number of outlying rural communities in this State there is a lack of physicians particularly in the winter time."

They also state that "there is no question in the minds of this committee but that certain communities and districts up-State are now lacking in adequate medical care; and the physicians of the State are as anxious as the State Department of Health to remedy conditions."

Thus all who have studied the situation, physicians, State Department of Health and social agencies, are agreed that help is needed. But there are differences of opinion as to the extent of the need and the remedies to be applied. One thing appears certain. The localities should themselves originate any movement to meet the situation and do all that they can toward carrying it out,

Small community hospitals to serve rural districts where a physician would have the advantages of being able to take care of several patients at a time, and thus avoid the long rides in the winter time over difficult roads to scattered homes are looked upon as a helpful solution of the need. Such small hospitals would provide laboratory and other facilities that would stimulate the interest of the physician and assist in attracting him to remain in such communities.

Many counties and other smaller communities are going forward with the establishment of such institutions and at the conference some of these were reported. I never believe in asking the State to do what a locality should do of its own accord, but it is sometimes necessary to apply a stimulus to secure local activity. It seems to me that the rural health problem will best be met by some such policy. Extending State aid indiscriminately to solve medical problems would be as impractical as it would be unwise.

I would, therefore, suggest that you enact legislation providing that when the county supervisors of counties having no first or second class cities, undertake public health work and make an appropriation therefor, either for small community hospitals in rural districts or public health activities of any other kind, the State shall appropriate a similar amount, dollar for dollar. The work to be done must conform to the standards of the State Department of Health and any money supplied to the county must be upon certification of the State Commissioner of Health that the work is necessary and is satisfactorily done and conforms to the standards of the department. This, of course, would be only the beginning and could in time be extended to other communities as experience would show the necessity for so doing.

Such a provision would guarantee permanence to any health project that the county undertakes and would be initiated and approved by local medical practitioners themselves. On the other hand, it would assure in time provision for the needed medical service in rural districts which cannot afford to carry the costs themselves and would thus be assisted by the whole county and also by the State. No already existing project would be eligible for such aid as the purpose is solely to

stimulate new undertakings applied to rural conditions in the field of public health.

In order to safeguard and also to stimulate such a program, I shall shortly act upon another suggestion made to me by the Physician's Conference and appoint a small committee composed of members of the Medical Society of the State of New York, the State Grange, several members of the legislature and representatives of the State Department of Health, and request them to examine the available information carefully and to proceed further to study and investigate rural health conditions and to assist these communities most needing to carry on this type of public health work in formulating their plans to get the work under way through the county supervisors.

Agitating the community and increasingly forcing itself upon our attention is the narcotic drug evil. I am convinced that part of the agitation on this subject is due to the sensationalism of certain types of newspapers and magazines. Lurid, sensational articles intended to inflame the imagination of young people and to make the whole subject mysteriously and morbidly attractive have led to the prevalence of a belief that the use of narcotic drugs is much more general than it really is.

From figures which have been submitted to me it is gratifying to note that the present control of the evil in New York City indicates that so far as the criminal addict is concerned the average age has increased from twenty-two years to about twenty-nine years, which would seem to indicate that during the period of the past six years, when there has been some form of control, the younger group is not so apparent among criminal addicts. The percentage table also shows clearly that only about 11% of the criminal addicts are females.

At the same medical conference the subject was discussed, and based particularly on recommendations by the committee appointed at that conference and by other groups called in to advise me, I am transmitting to you legislation which I think will meet the situation as it exists at the present time, and enable us to go forward gradually to the acquisition of a body of information concerning the subject as it affects this State.

We will then be able to apply more constructive remedies as the situation clarifies.

Naturally our efforts should be toward prevention of the spread of drug addiction and the legislation which I am submitting to you is aimed at this. It provides for the enactment into State law of the provisions of the Federal law, known as the Harrison Drug Act, and permits acceptance of the Federal order slips and blanks as of record in the State, requiring a third blank to be filed so that we will be able to build up our own body of statistics. From these statistics it will be possible in a year or two to know what further steps, if any, are necessary for the control of the addict who is not a criminal.

Police authorities will be assisted in their prosecution of drug peddlers by placing at their disposal an analyst whose function it will be to analyze drugs confiscated and to testify in court concerning them. The Insanity Law is to be amended so as to place under the supervision of the State Hospital Commission private institutions for drug addicts. The State Hospital Commission is also given the right to license and inspect such institutions. This is a logical expansion of their functions.

Reputable private physicians are not restricted by the provisions of this Act. It contains provision for the commitment by a magistrate of persons applying voluntarily to a magistrate or judge for such commitment for treatment.

In the main the police authorities will administer the act. The triplicates of the order blanks on which the drugs are bought and sold are to be filed with the State Police for the purpose of having a centralized record. By enacting the provisions of the federal drug control law into the statutes of the State and building up a volume of statistics, we will not be creating any new administrative department and we will strengthen our control of the criminal and come closer to a solution of the preventive phases of this problem.

I hope that you will proceed to early enactment of this much needed legislation so that we can have a constructive program under way which will finally lead to a rational solution and control of this dangerous and evil traffic.

You have now before you for consideration by your Honorable Body several bills affecting public health. Some of these are measures forming part of the consolidation program and would give to the Health Department control of several scattered agencies dealing with health matters.

There is also a proposal to extend the system of State laboratories. May I add that if any measures come before you affecting the Medical Practice Act, I will be glad to arrange a conference with the committee of physicians who so ably assisted me in the formulation of the present program. Their advice and assistance would prove helpful and they, in the last analysis, are chiefly affected by any policy which we may adopt.

I trust that all of these measures will have your favorable action. I have emphasized in this message the two outstanding matters requiring constructive action at the present time.

We should not have to face another winter with conditions as they were this year, endangering the lives of whole communities, when progressive action on our part could avoid it. Certainly there can be no difference of opinion either as to the need to go forward with a program for control of the spread of the narcotic drug evil.

(Signed) ALFRED E. SMITH.

Recommending the Adoption of Program for the Development of State Parks

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, April 18, 1923.

To the Legislature:

Recent years have brought about an increasing appreciation of the value of outdoor life. Congested living conditions in cities and the pressure of our industrial life and the realization of the value of outdoor recreation have all brought their influence to bear in such a way that public spirited citizens many years ago initiated a movement to give

to the State wide areas of land which could be utilized for such purposes. The Palisades Interstate Park, Letchworth Park, Allegany Park, Watkins Glen Reservation, Adirondack Park, are only a few illustrations of what this movement has brought to the State. As these gifts have grown and the State's own acquisition of land has increased, it has become evident that the State should adopt a constructive policy and initiate a **unified program**.

At the present time we have a number of scattered agencies that look after these parks, and I have recently recommended to your Honorable Body the creation in the Conservation Commission of a State Park Council composed of the heads of the larger State parks as a central planning agency.

Because I am convinced that there is undoubtedly great need of large open spaces outside of our cities for camping and recreation, and equally convinced that the acquisition of parks within the cities is now almost impossible, I am presenting here for your consideration a program of development that should meet our present needs and look toward the future.

Palisades Interstate Park was visited by over 4,000,000 people last year and over 50,000 group campers made use of its facilities. Twenty-five years ago no one would have believed this possible.

People in great numbers—not the rich—but the great rank and file of citizens and particularly the children visit our forest playgrounds, even going as far as the Adirondacks to do so. The increased enthusiasm for outdoor life stimulated by many clubs and organizations for children and adults, is one of the healthiest developments of recent times. The State ought to do everything in its power to provide forests and streams and parks to satisfy not only this generation but future generations who must live in even more crowded places. The cheap automobile has brought the country and the forests and lakes to the doors of hundreds of thousands of people who never got more than a mile or two away from their homes before. What changes will be brought about by the airplane we can only dimly appreciate.

There are other considerations fully as important which require consideration in connection with our forests and parks. Our water supply, the protection of watersheds and the flow of streams, the protection of trees which are being cut four times as fast as they are grown, the wild life of the forests, the rainfall and the very temperature of the State depend upon our forest preserves. The City of New York now gets its water from the Catskills and is already looking to the Delaware watershed and to the Adirondacks for an additional supply. I am convinced that timely expenditures for the extension of our forests and parks is a real economy.

You have before you now a proposal to bond the State for \$15,000,000 to carry out the proposals made by the New York State Association. This program is based on one first proposed to the Reconstruction Commission by the late Mr. George W. Perkins.

With the purpose of the park report and of the park bond issue bill I find myself in substantial agreement. The 1916 bond issue for the forest preserve and the Palisades Park is almost exhausted. There is need not only of continuing the purchase of land in the Forest Preserve and the further development of the Palisades Interstate Park, but also for the extension and development of state parks in other parts of the State which were not provided for either in the previous bond issue bills or out of the current revenues of the State.

I am not convinced that it is essential that this program be started this year by means of a bond issue.

I am opposed to such a bond issue this year only because it will conflict with the bond issue for hospital and institutional buildings, which I consider to be the most important subject at this time requiring the creation of a State debt. As only one bond issue proposal may be submitted to the voters next fall, it is clear to me that the park bond issue proposal should be postponed in favor of the bond issue for State hospitals and institutions. I therefore suggest the postponement of the park bond issue.

I realize that the park plans should be started and that a delay will be costly in the long run, because so much land is

involved which must be acquired immediately if it is to be acquired at all. Moreover, there are substantial gifts of valuable land prompted by public spirited citizens which are available contingent upon initial action by the state which will insure proper development and maintenance. In the case of several of the proposed park developments gifts from private sources will more than equal the amount proposed to be expended by the state in the next year.

Under these circumstances, I suggest to you that provision be made for beginning the park program through an appropriation this year out of current revenues. In order to carry out the program in this way, the sum of \$850,000 will be required in the first year and of approximately two million dollars annually for the next seven years. This will complete the entire fifteen million dollar park program in the course of the next eight years as proposed by the committee which prepared the plan. Of course, no legislature can bind its successors, but I believe it is reasonably certain that once such a program has been launched, provision will be made for completing it either by a bond issue or through other appropriations and funds. I would point out, in this connection, that the various park and conservation authorities will not be authorized in the bill which will be submitted to you to commit the State beyond the appropriations actually made available in any one year. Since the proposed expenditures are largely for the purchase of land and only in very small parts for permanent improvements there is little possibility in any event of committing the State in advance even by inference to expenditures beyond those for which appropriations are made.

I have set forth below the essential features of the program for the next year and for the following seven years. The program for 1923 will be incorporated in detail in a bill to be presented to you. Only \$850,000 will be required in this year because there are still some funds remaining for forest preserve purchases out of the \$2,500,000 appropriated in 1922, representing the last appropriation from the 1916 bond issue. Moreover no additional provision need be made

for the Palisades Interstate Park for the coming year, because the sum of \$500,000 for the further development of this park has already been incorporated in the annual appropriation bill.

The financial burden involved in carrying out this park program from 1924 on can be substantially reduced. In the first place, you already have before you a bill providing for the establishment of a conservation fund into which all fees from resident and non-resident fishing and hunting licenses and other fees and revenues of the Conservation Commission will be paid. This bill provides that part of such monies shall be expended for the purchase or acquisition of lands, lands under water or waters and water rights, in accordance with the Conservation Law. I am informed that fishing and hunting clubs are ready to pay a larger license fee provided that the funds from such fees are used to extend the conservation resources of the state. By passing this bill you will insure the establishment of a substantial fund for land and water purchases which I am informed will amount approximately to three hundred and fifty thousand dollars annually, and which will appreciably reduce the amount required to take care of the forest preserve extension program.

You have also before you a bill extending the so-called blue line surrounding the Adirondack Park so as to establish logical boundaries and to take in a considerable amount of forest and mountain land now outside of the park and, therefore, not within the purchase area for which forest preserve bond issue appropriations may be used. For example, this extension of the blue line will take in some of the finest scenery on Lake George, which should be acquired as part of the State park system in preference to many denuded and cut over sections of the Adirondacks. At the present time the State owns one hundred and twenty-two islands in Lake George which are not protected by a single foot of shore front. This is one of the cases where immediate action is required to forestall private developments which will make a state park impossible. Substantial gifts of land from public spirited owners only await action by the state. In connection

with this problem of the extension and protection of the Adirondack Park I shall make, in the course of a year, a careful study as a basis for the development of a sound policy for the conservation of timber.

In order further to reduce the sums required for park extensions in the year 1924, I recommend further that you pass a bill providing that the proceeds of the sale of all unappropriated State lands be set aside in a special fund to be used to carry out the park program. There are over 1600 parcels of unappropriated land scattered all over the State. In some cases, the title is not entirely clear. In many cases, the descriptions of the property are not clear. I believe that my predecessor also recommended to you the immediate sale of these lands and the Land Board has authority to make such sales. It is difficult to say in advance what these lands are worth, but the amount is undoubtedly large. I believe that we can bring the list of these lands up to date and sell most of those to which the title is clear in the course of the next six or eight months, so that the next Legislature will have a substantial fund from which to provide for park developments.

I am about to sign a bill just passed by you providing that such of these unappropriated lands as are useful for playground, park, recreational or reforestation purposes may be transferred at a nominal price to cities, villages, counties and towns. I believe that this proposal is an excellent one. Such parcels should not be sold but should be turned over to the localities. The remaining parcels should however, be sold at the earliest possible moment, because they now bring no revenue to the State and are an embarrassment to local tax and registering authorities. If the proceeds of such sales are set aside for park extensions, I believe that we shall have in 1924 a substantial fund available for furthering the park program. It is obviously a sound principle to dispose of scattered parcels of land which are lying idle and which are of no use to the State and the communities, so as to provide parks and playgrounds which will be of benefit to all the people of the State,

The suggested program for 1923 which will be incorporated in detail in a bill to be submitted to you is as follows:—

As already indicated, almost one million dollars is still left from the 1916 bond issue for the purchase of additional lands in the Adirondacks and Catskill Preserves. This will be as much as the Conservation Department can spend for this purpose in the course of the next year. In the bill to be submitted to you \$250,000 is appropriated for the Alleghany State Park. This sum will enable the Commissioners to purchase immediately lands which are about to be cut over, and thereby to preserve these lands as part of a park which will serve Buffalo and other neighboring cities in the same way that the Palisades Park now serves the Metropolitan district. It is also proposed to appropriate \$125,000 for purchase of lands in the Sawmill River Valley between Kensico Dam and the new Bear Mountain Bridge. This will provide the first step toward a continuous Metropolitan park system extending from the parks in the north of New York City, through Westchester County, passing through the city water supply parks at Croton and the Mohansic Lake Reservation, and over the new Bear Mountain Bridge to the Palisades Interstate Park. \$125,000 is proposed to be appropriated for the extension of the Niagara State Reservation. This will enable the Commissioners to establish the first link in a park system which will ultimately extend all the way from the present reservation at Niagara Falls along the Niagara River to Lake Ontario. It is proposed to appropriate \$75,000 for Letchworth Park, probably the most beautiful small park in the state, so as to make this park accessible to provide for the thousands of people who cannot be accommodated there at the present time owing to lack of facilities. \$75,000 is to be appropriated toward extending and improving the two existing state parks in the Finger Lakes region and toward purchasing new glens and waterfalls in this region. This will make a start toward the creation of a Finger Lakes chain of parks as proposed in the park plan. In order to establish the Lake George park and to conserve this region for the people, a first appropriation of \$75,000 is proposed. The bill will also propose an appropriation of \$75,000 for the extension of

the Saratoga Reservation. A special bond issue for the development of this Reservation is exhausted. Large numbers of people now make use of the waters of the Springs and the facilities of the present Reservation are no longer adequate. It is proposed to use the appropriation for the purchase of lands acquired by a citizen of the state who is holding them for sale to the state at cost price. \$20,000 is to be set aside for the improvement of the John Boyd Thatcher Park in Albany County and a lump sum of \$30,000 is provided for the improvement and extension of the other smaller parks in the state not specifically mentioned in the bill.

Thus a program can be initiated that is comprehensive, unified and thoroughly coordinated.

(Signed) ALFRED E. SMITH.

Transmitting Communication From Architect of Board of Education to President of Board of Education of the City of New York in Relation to the Letting of Contracts for New School Buildings.

STATE OF NEW YORK—EXECUTIVE CHAMBER.

Albany, April 16, 1923.

To The Legislature:

I am sending herewith copy of a letter from William H. Gompert, Architect of the Board of Education of the City of New York, written to Honorable George J. Ryan, President of the Board of Education of the City of New York.

You will see by the letter that he outlines certain difficulties encountered by the Board of Education in the letting of contracts for the construction of new school buildings in the City of New York.

I would suggest to your Honorable Body that you take such action in the premises as will relieve the Board of its difficulty and make possible the speedy erection of additional school buildings necessary to meet the ever increasing school population in the Greater City.

(Signed) ALFRED E. SMITH.

Brooklyn, April 3, 1923.

Hon. George J. Ryan,
President, Board of Education

My dear Mr. Ryan:

Under the caption "FORM OF CONTRACT" in my report of February 28, 1923, I recommended the advisability of changing the form of contract under which school buildings are now erected and securing a change of legislation to make this possible.

The law now makes it necessary to award several contracts on each building thus dividing the responsibility for the completion. This should be changed so that one general contract can be awarded including in addition to the general construction also the plumbing, heating and ventilating and electrical work. This will then make the general contractor responsible for the completion and make the liquidated damage clause effective.

To give some idea of the attitude of large contracting concerns toward the work being done under this bureau, I quote below excerpts from letters received recently:

FULLER CONSTRUCTION COMPANY

"We do not deem it desirable to bid upon school work under the present form of contract, due largely to the divided responsibility resulting on account of the mechanical work being let as a separate contract."

THOMPSON-STARRETT COMPANY

"Aside from this, however, we understand that contracts for school work are awarded without including in the general contract the plumbing, heating, ventilating and wiring. In our opinion, and in order to secure the best results as to cost and time of completion, complete control of these lines as a part of the general contract is absolutely essential.

"In addition to the quarrel we had with the contract, as worded, there is also the fundamental defect from our standpoint in the policy followed by the City to separately let contracts for mechanical lines."

JOHN LOWRY JR.

"Put the plumbing, heating and electrical work under the general contractor so there is single responsibility and not divided. It is playing rather a 'pig in a bag' when you don't know what the other people are going to do and when they will complete, especially on a school building where all the work should progress together."

TODD, ROBERTSON TODD ENGINEERING CORPORATION

"On public work of this character, a few of the substantial and successful building organizations should be selected, their method of operating should be submitted, and the contract should be awarded to one of these concerns who can show the best method of operating on the basis of cost plus a fixed fee. If this should be done, it would mean that the work would be handled on a much more satisfactory and economical basis."

FRED T. LEY & COMPANY, INCORPORATED

"If you selected say a half dozen of the most reasonable builders in the City and divided the emergency school work among them, giving each a fair fee for handling his portion of the work, that the final result you would obtain would be more reasonable and certainly time completion quicker, than you will on the competition basis."

The policies outlined above are not intended to discriminate against the small, reputable contractor, but to rectify the present system, which, apparently, is not conducive to good, big, broad competition, as is illustrated by the fact that the last school building project for which bids were opened on March 27, 1923, only attracted five bidders, and it is my belief that under the present conditions in the building market, in a very short time no estimates will be secured under the divided form of contract.

Please bear in mind that in my judgment the real difficulty is not with the production of plans nor with the type of construction in use at the present time in the bureau, but with the reluctance and prejudice on the part of the big body of

contractors against estimating on public school work under the present form of contract.

The situation is very serious and steps should be taken to endeavor to anticipate and meet what will in the very near future become a serious crisis.

Very truly yours,

(Signed) WM. H. GOMPERT.
Architect, Board of Education.

**Renewing Recommendation of Plan Embodied in Message
of March 1 for the Licensing and Regulation of Auto-
mobiles and Operators.**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, April 25, 1923.

To the Legislature:

Some time ago I called your attention to the great loss of life and injury to persons and property by the operation of automobiles. Every day brings fresh news of sudden deaths and injuries sustained by citizens throughout the State, resulting from careless operation of motor vehicles.

Within a week, the whole State was shocked by the disaster arising from automobile operation, which resulted in the death of one of New York's prominent citizens. The home that he made happy was plunged into the misery which comes from his absence.

The State cannot continue to use for general State purposes the money extracted in the form of license from the owners and operators of automobiles. A considerable portion of it must be spent under police supervision to ascertain the qualifications of a man to handle an automobile before he is permitted to operate it on the public highway, with an attendant danger to life and limb.

To wind up the session without attention to this matter is in effect to say that the State is more interested in dollars

than it is in the preservation of human life and the protection of the people on the highways.

I again bespeak your favorable consideration of the matters set forth in my message of earlier date upon this subject.

(Signed) ALFRED E. SMITH.

**Recommending Passage of Act Authorizing Appointment
of Special Commission to Examine and Propose
Changes in General Laws to Meet Requirements of
Article XII of the Constitution as Proposed to Be
Amended and Relating to Home Rule for Cities**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, April 25, 1923.

To the Legislature:

At the beginning of the legislative session, I recommended to your Honorable Body the passage of the so-called Walker-Ullman amendment, providing home rule for cities and restricting the power of the Legislature to pass local laws.

In view of the fact that both houses of the Legislature have passed for the second time an amendment to the Constitution proposing home rule for cities and restricting the power of the Legislature to pass local laws, excepting in an emergency and by a two-thirds vote, and defining in general terms the scope of local legislative powers but preserving in the State complete control over certain functions which the present Constitution and laws have regarded as being of state-wide concern, and requiring that the Legislature shall by general law provide the machinery for operating the home rule amendment, it is desirable if the amendment is approved by the people next fall, thus becoming effective the first of next January, that the machinery for the operation of this amendment should be in readiness when the next Legislature meets.

Obviously it is impossible to prepare the general laws which are required between election day and the first of January.

I, therefore, recommend to you the appointment of a special commission to examine and propose changes in the general laws of the State in order to meet the requirements of article XII of the Constitution as proposed to be amended by the Walker-Ullman bill. I recommend that this commission be an unpaid commission composed of fifteen members, five appointed by the Governor, five by the temporary president of the Senate, and five by the Speaker of the Assembly; that the commission organize on July 1st; that it have a small appropriation for the expenses of counsel and assistants and for other expenses; and that the commission report back the changes in general laws required not later than January fifteenth of next year.

I believe that great benefit to the State and the cities will result from the home rule amendment, provided that the plans for its operation are worked out in a practical way in advance. If this is done, the Legislature will be free beginning next year to give a greater part of its time to large matters of state-wide importance and its calendars will not be clogged with purely local measures, which should never come to Albany. At the same time the cities of the State will be given a larger share of control and responsibility for their own affairs and will be given real local legislative powers.

(Signed) ALFRED E. SMITH.

**Recommending the Passage of Minimum Wage Bill
Amended to Meet Objections Raised by the United
States Supreme Court in Passing Upon Minimum Wage
Law for the District of Columbia**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 26, 1923.

To the Legislature:

In my first message to the Legislature, I urged the enactment of minimum wage legislation to secure a living wage for women and minors in industry. In that message, I said: "For

many years we have discussed putting into effect a minimum wage for women and minors in industry established by means of determinations to be reached by a board composed of representatives of the interests involved, the public, the workers and the employers. For years this subject has been agitated and discussed in this State. Experience has shown that we cannot rely upon many industries in the State where wages for women are far below a decency standard, let alone one that means comfort. * * * The State owes it to her women and children to help industry realize that they must be paid a wage that will keep them in health and comfort, if we are to conserve one of our greatest resources. I have confidence in the wisdom and sound judgment of our business men and I am satisfied that they will make no objection to an agency of the State that will provide them with information which will permit them when they become convinced, to remove the industrial injustice that grows out of wages so low that the health of the workers must in time be impaired."

From the standpoint of the welfare of the State the economic soundness and the desirability of such legislation seem to me to be beyond question. However, the United States Supreme Court in passing upon the minimum wage law for the District of Columbia, similar to that which I recommended, has just held it to be unconstitutional as an invalid interference with a woman's freedom of contract.

This is neither the time nor the place to comment on this decision rendered by a divided court on an important statute involving the exercise of the police power, nor is it necessary for me to take the position that the decision of the Supreme Court to which I have referred invalidates any similar State law that has been or that might be passed. As a practical matter, I do not think it advisable for the Legislature to pass a statute in this State in a form similar to that which was condemned by the Supreme Court in the case of the District of Columbia.

I feel, however, that some legislation on this subject which will pass the test of judicial scrutiny should be enacted promptly in this State. I, therefore, recommend that you pass

a law providing for the creation of a minimum wage board within the State Labor Department to consist of three members to be chosen by the Governor.

This board should have the power to investigate wages and working conditions of women and children in order to determine whether the wages paid are adequate to meet the necessary cost of living and to maintain them in good health. If, after such investigation, the board has reason to believe that a substantial number of women and minors employed in any industry investigated receive less than a living wage, the board should be empowered to appoint a wage conference, consisting of an equal number of representatives of employers and employees of the industry and of one or more persons representing the public. The minimum wage board, on the recommendation of the conference so established would then determine the amount of the living wage to women and minors in the occupation investigated. The board would recommend the payment of such living wages by employers, but have no power to enforce its determinations. The board should also have the right to publish the names of employers who fail to carry out its recommendations.

The provisions in the original bill recommended by me giving the minimum wage board the power to enforce the payment of a living wage to women and minors and the provision making it a misdemeanor for an employer to fail to pay the amount of the living wage fixed by the board should be eliminated in order to meet the objections raised by the Supreme Court decision.

The amended bill which I now urge you to pass has been in force in substantially the same form in the State of Massachusetts for the past ten years and its constitutionality has been passed upon favorably by the highest court of that state. It will, of course, be less effective than the measure originally proposed by me, but it will at any rate create a permanent state agency to investigate and make public the facts as to wages and cost of living of women and minors in industry and will establish a State policy in favor of a living wage for such women and minors. I am convinced that with the facts

before them most employers will deem it not only a humane act but good business to comply with the recommendation of the Minimum Wage Board.

In the course of the majority opinion, the United States Supreme Court said: "The ethical right of every worker, man or woman, to a living wage may be conceded and with that principle and with every legitimate effort to realize it in fact, no one can quarrel."

I believe that every effort should be made to give effect to that ethical right which the Supreme Court itself concedes, and I strongly urge you to pass the amended bill recommended in this message as the best and most effective means that now seems to be available to remedy the evils of inadequate wages to women and minors in industrial establishments.

(Signed) ALFRED E. SMITH.

Recommending the Creation of a Bureau of Housing and Regional Planning in the State Department of Architecture

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 26, 1923.

To the Legislature:

Since my first term as Governor I have been impressed with the need for the adoption by the State of a definite policy on housing. I do not look upon housing as a real estate issue providing a source of taxation but rather as one of the fundamental questions we must solve because of its effect on the public health and welfare.

At the beginning of my first term I charged the Reconstruction Commission with the duty of investigating housing conditions in the State and through their efforts and that of your own legislative committee, aided by various local committees and private interests, the subject has been under more or less continuous agitation for four years.

In the second year of my first term, 1920, the housing shortage became so acute and rent profiteering so oppressive, that it became necessary for me to call a Special Session of the Legislature to deal with the emergency.

Of the three phases of the housing problem presented to the Special Session, the Legislature took action on two. They strengthened the Emergency rent laws so that wholesale evictions were stopped, and thus gave necessary protection to tenants. To stimulate a building program in an attempt to meet the housing shortage, a measure was also passed permitting communities by local ordinances to exempt new houses from local taxation for a period of years. But no recommendations looking to a permanent policy, although such measures were introduced, were even considered.

The emergency rent laws have, on the whole, worked well, and fulfilled their protective purpose. The tax exemption law has been taken advantage of almost exclusively in New York City and presents some interesting results worthy of your careful consideration. It has stimulated building. But the report of the Joint Legislation Committee on Housing points out that the buildings produced, rent for at least twenty dollars a room per month. This can easily be confirmed by investigation. Such rentals are, of course, prohibitive for working classes. However, it must be noted that the stimulus to building has by no means been confined to New York City, which has enacted a tax exemption ordinance, but has been just as marked all over the State and, in fact, all over the country. This impetus to building has resulted in greatly increasing the cost of homes. Labor and material costs have risen in this period from ten to twenty-five percent, thus making any construction intended for low rentals, prohibitive.

Increased building activity under tax exemption is thus no evidence of relief because the increased cost more than balances the tax exemption and where there is no exemption, building has been just as active. The only real argument for tax exemption would be lowered rentals but even this has not resulted; as a matter of fact the benefits of tax exemption have not been passed on to the tenants but remain a privilege to builders and landlords.

The most striking evidence that my deductions are correct is found in the report of the survey just completed by the Association of Real Estate Boards of New York State compiled from twenty-eight cities outside of New York City. Twenty-three cities still show a housing shortage from one to five percent in spite of an increased building activity of from ten to one hundred percent.

Wherever population and industry are increasing, rents have gone up—in fact this is so in fifty percent of the cities examined and in only four have they been lowered. In fact, the report states:

“As a possible explanation of rising rents, labor for construction is reported short in twelve cities, and building costs are up ten to twenty-five percent, in twenty-two cities. In eight money for financing home building through mortgages is reported scarce or unavailable.

A vast amount of construction is under way to overcome the housing shortage, but its high costs indicate that rents will be little if any lower for sometime to come and the purchase prices will remain high for the same reason.”

I am prepared to say, from figures presented to me that the scarcity in low priced homes is as great—or greater than ever. Just recently some of the blocks in New York City consisting of old law tenements, surveyed by the Reconstruction Commission were re-examined by the same special agencies which gathered the information in 1919 to make a comparison of rentals. It is astonishing to find that with almost no exception rents have been increased sometimes as much as fifty percent to old tenants and wherever there is a change in tenancy the increase is almost unbelievable and ranges as high as 100%. The figures are available as proof.

Argument is frequently made that it does not matter if building is all of high class and expensive housing, this will eventually affect the cheaper grades since as the supply of expensive housing comes to exceed the demand, its price will drop and pressure will be relieved all along the line. This might be true if we faced an ordinary situation; but we are suffering from the effects of many years of inactivity and it

will be five or ten years more before we could possibly catch up and have any left-overs or vacancies. It started us to have the census returns show the island of Manhattan had actually decreased in population from 1910-1920 but these same returns show a tremendous increase from 1915-1920 which included the war period when no building was done. As very few new homes were constructed during this period the increased population was forced to live in the dilapidated, unsanitary old law houses that were considered unfit for human habitation.

Examination of the houses built under tax exemption — whole blocks of them in some boroughs — will show that they have been constructed without the least consideration as to the City's growth and without guidance as to type or plan. They abound in the old-fashioned dark room construction because so many of them avoided conformity to the Tenement House Law by building for two families. Buildings for three families or more would have been subject to the Tenement House Law.

If, it will be asked, I find the results of tax exemption afforded so little relief, why did I favor its continuance for another year? In the answer to that question is the heart of my whole proposal to your Honorable Body.

When the time came to determine the advisability of continuing the law, no responsible State body had available information on which action could be based. We are always securing information after things happen. We do not look ahead and plan for the future although we know with the certainty that night follows day that population will increase, industries will grow and housing must be available.

In the absence of reliable data a whole industry and thousands of people may be affected. It seemed to me best not to disturb the present system until I could, with some degree of assurance, offer the State something better and something fundamentally and permanently taking account of the future.

Next year you will again have before you the question of continuing tax exemption and also the continuance of the emergency rent laws. Where will we look for unbiased statement of facts and for recommendations for action?

I trust that your Honorable Body will at last agree with me that this State needs a Housing Board with powers and duties that will enable it to secure from localities the information we need on which it can base recommendations to you for a permanent policy on housing. As a first step, I suggest that you create in the office of the State Architect, later to become the Department of Architecture under our plan of reorganization agreed upon, a Bureau of Housing and Regional Planning to consist of an unpaid Board of five members and the State Architect, the Highway Commissioner and the Industrial Commissioner as ex-officio members. This Board should be charged with the duty of reporting to your Honorable Body and to the Governor in January 1924, housing conditions in the State; whether or not in their opinion a housing emergency still exists warranting either continuation or extension of the emergency rent laws and of tax exemption laws.

It becomes more and more apparent that housing is related to questions of transportation, industry, road and street planning, the layout of lots, the distribution of population and the relation of the cities to the country and the farms. Some of our counties are appointing regional planning commissions and some of our cities will soon follow, in an attempt to relate their growth to the less developed rural surroundings.

The Housing Board should, therefore, be asked to consider housing from the broad point of view of regional planning and for that reason I have suggested that the Highway Commissioner be a member of the Board.

Continuous investigation on which predictions of future needs in housing could be based, would be of value in preventing future emergencies similar to that through which we are passing. It would also help those interests which now supply houses to gauge the need for the coming year. There is much information based on the experience of other states and nations that would be of inestimable value to the people of this State, which should be collected and given publicity.

There should be in the State an official body gathering such information, stimulating action, planning for the future. I should say that the activities of your own Joint Legislative

Committee point clearly to the need of a permanent State agency to be continuously in touch with housing and its related problems. I pointed out in 1920: "In the enactment of Labor Laws we are guided by the Industrial Commission. In the enactment of Health measures, by the State Department of Health. In matters affecting the conservation of our natural resources, by the Conservation Commission. The Banking Department, the Insurance Department, and other State agencies all deal with special subjects that need Executive or legislative action. But in housing, dealing with the elementary need of shelter and establishing homes, there is no State or local agency to aid the legislative and Executive branches of the government either in meeting an emergency, or what is more important, in helping to establish a permanent housing policy for the State. Such a policy does not necessarily mean the building of houses by the State, but it does mean the establishment of housing standards and of local development that should underlie any future growth of the cities of this State."

Conditions have not changed since then except for the worse. Rents are higher, low priced homes scarcer and costs immensely increased.

Justice to the growing children of the State demands decent housing for them in wholesome, convenient locations. Everything you have considered in this connection must have convinced you by now that a haphazard, sporadic effort will not aid. It must be a continuous policy, continuously applied and continuously watchful of results.

(Signed) ALFRED E. SMITH.

Note: Chapter 694 of the Laws of 1923, provided for the creation of a Commission of Housing and Regional Planning, in conformity with the Governor's recommendations.

Commission of Housing and Regional Planning

Sullivan W. Jones, State Architect, ex-officio.

Lowell Grossman, Commissioner of Highways, ex-officio.

Bernard L. Shientag, Industrial Commissioner, ex-officio.

Appointed by the State Architect

Clarence S. Stein, of New York City, Chairman.

Oliver Cabana, Jr., of Buffalo.

Mrs. Sarah Conboy, of New York City.

Peter D. Kiernan, of Albany.

**Recommending Passage by the Assembly of Bills Affecting
Child Welfare—Providing for Payment of Allowance
to Mother When Father is Entirely Incapacitated; Ex-
tension of Laws to Children Born in the United States
of Alien Parentage; Payment of Allowance to Lawful
Guardian Upon the Death of Mother**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 30, 1923.

To the Assembly:

In my first message to the Legislature, I spoke of the report of a Commission created at my suggestion in 1920 to inquire into the laws affecting children. After reading the part of their report which dealt with the question of allowances to widowed mothers for the care of their children, I specifically recommended that an allowance should be granted to a woman when the father is entirely incapacitated by any physical or mental ailment.

It must be borne in mind that under the provisions of the Child Welfare Act no allowances could be made by the Board of Child Welfare unless the mother was so reduced in circumstances as to be at the very point of offering the children for care, by the municipality or the State itself, in a public home by commitment through proper judicial authority. If the mother is a right and proper person there is no reason why she should be separated from her children when the father is helpless because of a physical or mental ailment. We should do everything we can to keep the home together. No influence in this world is as effective for the creation of good citizens as that exercised by a good mother.

I further recommended that the benefits of the Child Welfare Law should extend to children born in this country, although the mother may be an alien, if she has resided five years in the United States. The child is a citizen by birthright and there is no reason why it should not be cared for the same as other children who lose their fathers.

I further recommended that the statute be amended to permit an allowance to be paid to a lawful guardian upon the death of the mother.

The history of the operation of Boards of Child Welfare speaks eloquently for the good sound common sense displayed in the carrying out of all of the provisions of this law. Throw the cloak of the State's protection around all these children not as a matter of charity but as a matter of duty. The State of New York should be the leader in all matters of this kind; we have the wealth, we have the power, and we have the influence, and we cannot be insensible to our duty to helpless women and children.

Bills making effective these three proposals have long ago passed the Senate, and are before your Honorable Body for consideration. Accompanying them is a proposal to make a direct contribution by the State to Boards of Child Welfare in order to encourage the local communities to assist the State in this great work. A bill to carry out this purpose also passed the Senate and is before you, and I would very earnestly solicit your consideration of them.

(Signed) ALFRED E. SMITH.

**Recommending Passage by the Assembly of Bill Embody-
ing Suggestions Contained in Message of March 5, Re-
lating to the Development and Distribution of Hydro-
Electric Power by the State**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 30, 1923.

To the Assembly:

I again call to your attention the necessity for the adoption of a plan for the development and distribution by the State under State ownership and State control of hydro-electric power for the benefit of all of our people.

We had a lesson taught to us this winter when the State had to exercise its extraordinary police power to bring about a proper and equitable distribution of coal due to the shortage occasioned by the shut-down of the coal mines. New York was compelled to look to powers outside of her own State for relief from the intolerable condition. While that was going on water capable of developing electrical energy and conserving the coal supply was running to waste. The State is now contesting with the Federal government the question of jurisdiction over these great water powers. It is no wonder that the Federal government reaches in to stop the waste because it seems to be impossible to develop them in our own State, unless it be by giving them away to be made the objects of private gain and private profit. Our experience in the past in dealing with our great water power resources should be a strong lesson for the future. These water powers belong to all the people of this State and they should be developed for their benefit.

Weeks ago the Senate sent your Honorable Body a well thought out plan carrying this into effect, and I earnestly hope that before adjournment you will give this important matter the consideration it deserves.

(Signed)

ALFRED E. SMITH.

Recommending Appropriations for the Elimination of Railroad Grade Crossings

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 1, 1923.

To the Legislature:

There is no more important subject in the State having for its purpose the preservation of life than the elimination of railroad crossings at grade. Several of the cities of the State have grown at such a rapid rate that railroad operation at grade through them has become a menace to life.

The State has a fixed and definite policy with regard to their elimination, one-half the cost being borne by the railroad company, one-quarter by the locality, and one-quarter by the State. Of recent years no appropriation has been made for the State's share and until it is the locality or the railroad can do nothing.

I, therefore, suggest that provision be made by appropriation of sufficient funds to permit the work of elimination to continue.

(Signed) ALFRED E. SMITH.

Recommending Passage by the Assembly of Concurrent Resolution Empowering People of the State to Initiate Amendments to the State Constitution

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 1, 1923.

To the Assembly:

Throughout the length and breadth of the land there is an insistent demand on the part of the people themselves that they be given a more direct hand in the management of their own government. In order that it may be brought closer to them they should have the power to initiate as well as pass upon amendments to the fundamental law. The Constitution is the people's own law. They make it themselves and whatever may

have been the reason for an intermediary body in the past, it does not exist today, and where popular opinion looking to a change is sufficiently widespread the powers to initiate an amendment to their own law should rest with the people themselves. Such a move would awaken a greater interest on the part of our people in amendments to the Constitution.

A bill making this recommendation effective passed the Senate on the fourth of April and is now before your Honorable Body. I request that you give it your earnest and careful consideration.

(Signed) ALFRED E. SMITH.

**Recommending Passage by the Assembly of Bill Amending
the Election Law Restoring Direct Nominations of
Party-Candidates for State Wide Offices and Office of
Supreme Court Justice**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 1, 1923.

To the Assembly:

In my first annual message I recommended that the power to make nominations for party positions and for public office be turned back to the enrolled members of the parties, where it has rested since 1913 until interfered with in 1921. There is not nor there never was, since the enactment of that law, any reason why the rank and file of the parties should be denied the right to participate directly in the making of their nominations. The Chairman of the Executive Committee of the Republican State Committee in an interview a short time ago said: "Voters are less attached to political organizations than ever. They want something to say about politics themselves, and they resent having things sewed up in advance so that when convention time comes they are in the position of being handed something by the leaders."

A bill restoring the law to where it was prior to 1921 passed the Senate as far back as March thirteenth last. On April

seventeenth the Assembly passed a compromise measure. You can not compromise with a principle. It is either right or wrong.

I earnestly request your consideration of the Senate Bill now before your Honorable Body.

(Signed) ALFRED E. SMITH.

**Recommending Passage by the Assembly of Bill Abolishing
the State Armory Commission and Transferring Powers
and Duties to the Adjutant General**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 2, 1923.

To the Assembly:

In a special message to your Honorable Body on February twenty-sixth, I made certain definite recommendations looking to the consolidation of various independent and scattered spending agencies of the State government. Many of them have received your favorable consideration, and many otherwise.

The principal benefit to the State sought by consolidation is a lessening of expense in the transaction of the State's business. I note by your records that the Assembly on motion recommitted to the Committee on Rules the bill to abolish the present Armory Commission and to transfer its powers and duties to the Adjutant-General. This bill should pass in the interest of efficiency and economy. Last year the personal service required for this Commission amounted to \$14,010. The Adjutant-General certifies to me that with this activity in a bureau under his direction, he can carry on all its activities more efficiently than they have been carried on in the past at a total cost of \$8,300, with a consequent saving to the State of \$5,710. The work of this Commission is purely an administrative matter which should be under the direction of a single head. The Commission idea has not worked successfully. Since January first up to the writing of this message, the Armory Commission has met once.

On the side of efficiency, it can be truthfully said that the armories of the State are rapidly deteriorating. The total value of the property in charge of this Commission is estimated at \$12,000,000. A questionnaire recently addressed to the commanding officers of the various armories showed them all, with a few exceptions, to be badly in need of minor repairs which, if not attended to at once, will gradually grow worse.

Instead of talking a false economy and postponing the payment of the State's just obligations, we should take some step towards stopping the small leaks going on in the various boards, commissions and departments of the government. Here is an opportunity to make a good beginning and can only be opposed by the beneficiaries of the present system.

I earnestly bespeak your careful consideration of this proposal.

(Signed) ALFRED E. SMITH.

Recommending Passage by the Assembly of Measures Embodying Suggestions Contained in Message of February 26, Relating to the Statutory Consolidation of Scattered State Departments

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 3, 1923.

To the Assembly:

In reviewing the record of the Legislature on the action recommended to you for consolidating by statute over one hundred independent spending agencies of the State, I note that most of the legislation introduced has passed the Senate and is blocked in the Assembly.

It is a matter of interest that the few bills of this group which have been permitted to pass in the Assembly are those which do not involve any appreciable saving of money to the State. Wherever saving would be of any consequence the bills have either been lost or are still in the Committee on Rules of the Assembly.

I can see no reason why this whole group of legislation should not pass, other than an unwillingness to do away with petty patronage and the many uncontrolled avenues for spending the State's money which flourish under our present system.

It is not too late to demonstrate that your Honorable Body has real economy in mind and is willing to do everything possible at the earliest possible moment to set the State forward on this program.

(Signed) ALFRED E. SMITH.

**Recommending Passage by the Assembly of Bill Designed
to Restore to Localities Control Over Own Agreements
With Public Utility Corporations**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 3, 1923.

To the Assembly:

In 1921 the reorganization of the State Public Service Commission deprived the cities of the State of control over their own franchise agreements and contracts with public utilities corporations, even where the localities themselves have invested their own funds. After this happened fares and rates for public service were raised all over the State and as a consequence great discontent was manifest throughout the localities affected. It was an issue in the last campaign and thoroughly debated. The decision rendered in up-State cities left no doubt that the people voted to be relieved of this intolerable condition.

In my annual message I called attention to this violation of contract rights both as an example of the violation of home rule principles and as an undemocratic denial of self-government.

While public utility and transit legislation affecting New York City are still matters in conference, relief for up-State cities need not be delayed to await the outcome of the conference. The underlying principle is one which is clearly under-

stood by the public and one which your Honorable Body should not deny.

Control over their own agreements with public utility corporations should be restored to the localities of the State without delay. They had enjoyed this privilege for the last half century and should never have been deprived of it.

Legislation to accomplish this has been introduced and has passed the Senate. There can be no question but that this control over their own property should be exercised by the localities and not by a superimposed State agency.

I trust that your Honorable Body will right this wrong before adjournment.

(Signed) ALFRED E. SMITH.

**Recommending Passage by the Assembly of bill designed
to relieve Transit Conditions in the City of New York**

STATE OF NEW YORK — EXECUTIVE CHAMBER

May 3, 1923.

To the Assembly:

You have had before your Honorable Body since the eleventh of last February a well studied and carefully prepared bill intended to relieve the intolerable, dangerous and deplorable condition into which the transit facilities of the city of New York have fallen.

This measure was framed to promote the interest of the traveling public and to give to the city of New York a measure of control over its own investment of more than three hundred million dollars.

At a public hearing six weeks ago the bill was subjected to a careful analysis on the part of everybody affected by it. I need not say that the only objection offered to it came from the corporate interests it is intended to control only to the end that they may be compelled to render the services in accordance with the contract they made with the city of New York when the valuable franchises were granted to them.

After much discussion, the suggestion originated with the majority party in the Assembly that a conference be had between representatives of that body and representatives of the

Senate with myself for consideration of the measure. This conference lasted in all some eighteen hours at different times and every detail of the bill was thoroughly gone through and fully explained by the proponents of the measure.

In any discussion over measures of relief of transit conditions in the city of New York, consideration must be given to the broad subject as a whole as well as to any of its particular parts. The Democratic conferees yielded to the Republican demands on many vital points. Regulation of financial issues and readjustment of the financial affairs of the corporations it was decided should be left with the State. Protection was offered to the operating companies by permitting recourse to the courts for a review as to the reasonableness and justice of orders made for improvement in the service rendered, but the Republican conferees steadfastly held to the regulation of existing utilities, as they claimed, by the State, but in reality by the existing transit commission. They seem to be unable to comprehend that the State lost none of its sovereignty by a change in the agency for carrying out the state's control. They were unwilling to delegate to representatives of the elected administration of New York City the power now reposing in the Transit Commission and proposed what must appear to every citizen as a ridiculous condition, namely, the retention of the present Transit Commission and the imposition upon the taxpayers of a new commission clothed with power only to relieve the present intolerable condition at a period no nearer than five years.

I need hardly remind you that the present Transit Commission, so far as being able to relieve the conditions in New York, is a monumental failure. Every opportunity accorded to the people to register their opinion of this commission has met with a condemnation unmistakable in its terms.

All during the conference the question was repeatedly asked "What can be the fundamental objection to delegating state power to the elected officials of a municipality in the all important question of transit?" This has brought forth no answer except an apparent desire not to do it. Nobody will gainsay the fact that private investment must be protected, but at the same time it cannot be permitted to stand in the way of the

onward march of progress. The first consideration should be that which benefits the great majority of the people, even though in its operation it may be detrimental to the few.

That the few would have so much influence in this age of progress is unbelievable and the failure of the conference to arrive at a decision as to what ought to be done can be charged up to just one fact, that would be apparent to any disinterested onlooker. That fact is that the Republican conferees approached a solution to the problem, having in mind only the protection and care of the existing companies, inadequate as they are, and the preservation of whatever financial interests may still remain in them, while on the other hand the Democratic conferees approached the subject thinking only of the promotion of the health, welfare and the safety of six million people in the city of New York. The Democratic view of the whole proposition means a comprehensive solution of the problem as a whole, looking to immediate relief, while the Republican program at best promises something in nineteen hundred and twenty-eight.

It is unthinkable that after four months of study, with this subject uppermost in the minds of the citizenship of a great city, that you would adjourn without taking some action looking to relief from a condition known not only to the people of the city of New York, but known and spoken of in the communities far away from it, represented by a majority of the Republican conferees.

There can be no middle-of-the-road path upon which you can travel with any degree of safety. You must be either with the city and her earnest desire to relieve the conditions or you must be with the companies who by their inability to give the service to which they were pledged have brought about the condition that makes necessary this earnest appeal.

I regard this matter of sufficient importance to have it voted on by the Assembly in full session and I suggest that the Walker bill, Senate Int. 656, which has already passed the Senate, be put on the calendar in order that every member elected to the Assembly may have full opportunity to express himself.

(Signed) ALFRED E. SMITH

**Recommending Passage by the Senate of Bill Providing
the State's Share of Appropriation for the Promotion of
Welfare and Hygiene of Maternity and Infancy**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 4, 1923.

To the Senate:

My attention has just been called to the passage by the Assembly of Assembly Bill Introductory Number 1829, Printed Number 2218. This bill seeks to meet an appropriation made by the Federal Government to our Department of Health to promote the welfare and hygiene of maternity and infancy. I recommended the passage of this bill in my first annual message to the Legislature.

The sole question before the Senate seems to be whether or not the State of New York will take advantage of the money allotted to it under the provisions of the Federal statute. It does not necessarily mean that we subscribe to the principle that the Federal Government should make appropriations for matters of this kind. I do not believe that the Federal Government should in any way subsidize the States for any activity that wholly belongs to the State itself. That argument might with equal force be used against the apportionment of State money for the construction of post roads. You have already at this session accepted the principle of that and you have met the federal apportionment by an appropriation from our own general fund.

But I maintain again as I did in my first message that if you quarrel with the principle involved, the place to air your argument is at Washington and not in Albany. New York has contributed by her taxation to the federal general fund very liberally, and it seems to me to be very poor business not to take advantage of a return of some of the money under the provisions of the Federal Act when nobody is in a position to quarrel with the purpose for which the appropriation was made.

(Signed)

ALFRED E. SMITH.

IV

PART I

VETO MESSAGES

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PART I
VETO MESSAGES

To Amend the Highway Law in Relation to Local Ordinances Regulating the Speed of Motor Vehicles

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 2, 1923.

To the Assembly:

I return herewith, without my approval, Assembly Bill Int. No. 290, Printed No. 290, entitled:

“AN ACT to amend the highway law in relation to local ordinances regulating the speed of motor vehicles.”

This bill seeks to amend section 288 of the highway law, which section now provides that second class cities not situated in counties adjoining a city of the first class, third class cities and incorporated villages are permitted to limit the speed of motor vehicles operated within their boundaries, but such limitation in no case shall be less than fifteen miles an hour.

This amendment seeks to change the fifteen mile limitation to twenty, thereby increasing the rate at which automobiles may travel through certain villages that have established a fifteen mile limitation.

I am opposed to permitting the increase in the rate of travel of motor vehicles until such time as some action is taken toward the regulation of the operation of motor vehicles. I recently recommended in a message to the Legislature the passage of an act regulating the operation of motor vehicles, and until some such act is passed, I am opposed to permitting by law an increase in the rate that automobiles may be operated.

I, therefore, return this bill disapproved.

(Signed) ALFRED E. SMITH.

Statement of Items of Appropriation not Approved — Annual Appropriation Bill

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 9, 1923.

To the Assembly:

Statement of items of appropriation objected to and not approved, contained in Assembly Bill, Int. No. 1498, Printed No. 1625, entitled:

“AN ACT making appropriations for the support of the government.”

The bill as presented on March 28th, 1923, contained various items of appropriation totaling \$116,949, 552.62. I have examined the various items contained in the bill and have eliminated therefrom certain items to which I object. The total of those items amounts to \$5,545,613.27. The reasons for my objections are stated in the memorandum attached herewith.

DEFENSIVE

STATE ARMORY COMMISSION

MAINTENANCE AND OPERATION

“Rent or acquisition of real estate as provided by chapter 583, laws 1921”	15,000 00
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This item is disapproved because the Legislature now has before it a bill for the purchase of this land, thus making the item unnecessary.

CANAL FUND

SUPERINTENDENT OF PUBLIC WORKS

“Field Force:

Inspecting, etc.	53,250 00
Operating, etc.	770,814 50
Mechanical, etc.	171,408 10
Grain elevator force”	125,000 00

These items are disapproved because they are not segregated. I will accept items in the supplemental bill for the proper maintenance of this department if presented in segregated form.

Maintenance and Operation

"For expenses of maintenance and operation including dredging" 1,650,000 00

This item is disapproved because it is not segregated. I will accept an item in the supplemental bill for the proper maintenance in this department if presented in segregated form.

"Towing, including towing on Oneida lake" 50,000 00

This item is disapproved because I am informed by the Superintendent of Public Works that the full amount is not necessary and \$25,000.00 if made immediately available will cover the necessity. I will approve this amount if presented to me in a supplemental bill.

PRISON CAPITAL FUND

AUBURN PRISON

Personal Service

"Superintendent of Industries, Auburn prison's portion" 2,500 00

This item is disapproved because I am advised by the Superintendent of Prisons that the position is now vacant and unnecessary.

CLINTON PRISON

Personal Service

"Superintendent of industries, Clinton prison's portion" 2,500 00

This item is disapproved because I am advised by the Superintendent of Prisons that the position is now vacant and unnecessary.

SING SING PRISON

Personal Service

“Superintendent of industries, Sing Sing prison’s portion”	2,500 00
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This item is disapproved because I am advised by the Superintendent of Prisons that the position is now vacant and unnecessary.

JUDICIAL

COMMISSION ON UNIFORM STATE LAWS

“For expenses of maintenance and operation	500 00
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This item is disapproved for the reason that only \$500.00 was appropriated last year and the Commission should have lived within it. They had no business to go on expending in excess of the appropriation made.

REGULATIVE

PUBLIC SERVICE COMMISSION

Maintenance and Operation

“Maintenance undistributed for the employment of experts and for other expenses and disbursements of the commissioners and their subordinates incurred and to be incurred in investigating the property, affairs, and rates of charges of the New York Telephone Company, for the purpose of acquiring the necessary information to enable the commission to exercise its powers and duties respecting such corporation”	15,000 00
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This item is disapproved because of the manner in which it is worded. It provides for services to be incurred and should be comprehended in the regular appropriation.

EDUCATIONAL

EDUCATION DEPARTMENT

Maintenance and Operation

“Equipment, supplies and materials for museum (setting up of the McMillan mastodon)”	2,028 94
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No satisfactory explanation has been made to me for this item. I am unable to understand the state's liability.

PROTECTIVE

CITY OF ROCHESTER

“For payment to the city of Rochester for assessments against state lands for sewer improvements on Chili avenue outlet and Maple street and Field Road outlet.”	8,111 73
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This item is disapproved because I am not in possession of sufficient information to convince me that this is a proper and legitimate charge against the state.

CANAL FUND

SUPERINTENDENT OF PUBLIC WORKS

Personal Service

“Field Force Operating”	75,000 00
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This item is disapproved because of the form in which it is presented. I will accept the item in the supplemental bill if properly segregated.

Maintenance and Operation

“Repair and replacements including dredging”	744,000 00
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This item is disapproved because of the manner in which it is drawn and items that it covers. The Superintendent of Public Works advises me that he will present this and other items now appearing in part three of the bill in proper form for the supplemental bill.

AGRICULTURE

NEW YORK STATE COLLEGE OF AGRICULTURE AT CORNELL
UNIVERSITY

"For continuing the development of the
State College of Agriculture at Cornell
University including plant industry build-
ing" 830,000 00

This item is disapproved because I expect to have submitted in a special bill an authorization for a larger amount made necessary by a reestimate on the part of the State Architect. The new item should contain that amount which can be expended in the next year.

PENAL

AUBURN PRISON

"For laundry equipment" 10,000 00

This item is disapproved because further investigation shows it to be unnecessary.

CHARITABLE

STATE SCHOOL FOR MENTAL DEFECTIVES, SYRACUSE

"Additional fire protection" 15,000 00

This item is disapproved because in a special bill an additional sum is provided for this purpose.

BENNINGTON BATTLEFIELD

"For road construction and erection of
markers" 3,000 00

This item is disapproved for the reason that the information supplied to the Executive is insufficient to support the appropriation.

CANAL FUND

DEPARTMENT OF PUBLIC WORKS

"For continuing the construction of state
shops, including appurtenances" 250,000 00

This item is disapproved because of the manner in which it is drawn. I am advised by the Superintendent of Public Works that this item can be segregated and I will approve in a supplemental bill of the item if presented in proper form.

“For extraordinary repairs to locks, dams, bridges, floating plant and other structures; bank protection and riprapping and construction of fender systems on locks and guard gates” 750,000 00

This item is disapproved because the items contained therein are of such a nature that they should be included in the repair item of the canal system. I will approve in a supplemental bill such items as are deemed necessary for the repair of the canal by the Superintendent of Public Works.

(Signed) ALFRED E. SMITH

To Amend the Judiciary Law in Relation to Powers of Kings County Judges to Appoint Medical Consultants

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 24, 1923.

To the Senate:

I return herewith without my approval Senate Bill, Int. No. 410, Printed No. 414, entitled:

“AN ACT to amend the judiciary law in relation to the powers of county judges of Kings County to appoint medical consultants.”

This bill seeks to empower the county judges of Kings county to appoint three new officers, to be known as medical consultants, whose duty it shall be to examine, investigate and report and, when so required, to certify, as to the physical and mental condition of such persons as shall be referred to them

by the county judges or any one of them, in civil or criminal cases under their jurisdiction.

In my judgment such positions are unnecessary. I am informed by the Commissioner of Welfare of the City of New York that the psychopathic ward in Kings County hospital is located in a separate building of ample size and especially constructed for this kind of examination and provided with a competent staff of alienists to pass upon the mental condition of those referred to it.

There also exists at Bellevue a psychopathic ward which is available for the whole city, and I have recently approved of a measure which exempts from the "pay-as-you-go plan" additional construction to existing hospitals, which I am informed aims especially at an increase in these hospital facilities, and I am at a loss to know why it should be necessary to create this special board in the county of Kings.

I, therefore, return this bill disapproved.

(Signed) ALFRED E. SMITH

**Providing That Appeals from Municipal Court of the City
of Syracuse Shall be Taken to Appellate Division
Fourth Department**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 24, 1923.

To the Senate:

I return herewith, without my approval, Senate Bill, Int. No. 859, Printed No. 937, entitled:

"AN ACT to amend chapter five hundred and twenty of the laws of nineteen hundred and six, entitled 'An act in relation to the municipal court of the city of Syracuse,' in relation to appeals from such court, and repealing section thirty-three of such chapter."

NOT APPROVED.

This act seeks to change the long-standing rule of law that an appeal from the municipal court of the city of Syracuse shall

be taken to the county court, and provides that an appeal from the municipal court shall go to the Appellate Division of the Fourth Department.

Municipal courts are the successors of justices of the peace courts, and from time almost beyond memory appeals have been taken from such courts to the county court, and have been taken upon written records in the inferior court and upon written briefs. Under our practice, no appeal can be taken to the Appellate Division except upon a printed record and upon a printed brief, which in most instances are somewhat expensive. The object of establishing justices courts, and their successors the municipal courts, was to create a tribunal where small controversies could be decided quickly and cheaply. In other words, the justices court, and its successor the municipal court, are the poor man's courts, where he can have his small differences adjusted quickly and cheaply. There is already much criticism of the expense and delay in litigation, and to burden small litigants in the city of Syracuse with the expense of printing records and briefs in order to take appeals from the decisions of a local court seems to me to be entirely unwarranted. Aside from this, it would have a tendency to congest the Appellate Division.

I, therefore return the bill without my approval.

(Signed) ALFRED E. SMITH.

To Amend the Civil Practice Act in Relation to Publication of Notice of Sale of Real Property

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 30, 1923.

To the Senate:

I return herewith, without my approval, Senate bill Introductory Number 470, Printed Number 479, entitled:

“AN ACT to amend the civil practice act, in relation to publication of notice of sale of real property.”

NOT APPROVED.

This bill is unnecessary as it is an exact duplicate of chapter two hundred twenty-seven of the laws of nineteen hundred and twenty-three.

I therefore disapprove the bill.

(Signed) ALFRED E. SMITH.

To Amend the Public Lands Law in Relation to the Conveyance of Unappropriated State Lands to Cities, Villages, Towns or Counties for Park or Playground Purposes

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 30, 1923.

To the Senate:

I return herewith, without my approval, Senate bill Introductory Number 888, Printed Number 1693, entitled:

“AN ACT to amend the public lands law, in relation to conveyance of unappropriated state lands to cities, villages, towns or counties for park, recreation or playground purposes.”

NOT APPROVED.

I can see no substantial difference between this bill and chapter two hundred thirty of the laws of nineteen hundred and twenty-three and I consider it unnecessary.

I, therefore disapprove the bill.

(Signed) ALFRED E. SMITH.

IV

PART II

MEMORANDA ON LEGISLATIVE BILLS VETOED

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PART II
MEMORANDA ON LEGISLATIVE BILLS VETOED

To Amend the State Charities Law in Relation to the
Visitation, Inspection and Supervision of Institutions

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 21, 1923.

Memorandum filed with Assembly Bill, Introductory Number 951, Printed Number 1652, entitled:

“AN ACT to amend the state charities law, in relation to visitation, inspection and supervision of institutions.”

NOT APPROVED.

This bill is disapproved upon the request of the Secretary of the State Board of Charities, upon the theory that they be given the balance of this year to study this situation before accepting the responsibility placed upon the Board by the operation of this bill.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Amend the State Boards and Commissions Law in
Relation to Employees of the State Fair Commission

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 21, 1923.

Memorandum filed with Senate Bill, Introductory Number 1631, Printed Number 1874, entitled:

“AN ACT to amend the state boards and commissions law, in relation to employees of the state fair commission.”

NOT APPROVED.

The Constitution of the State of New York provides that all promotions and appointments in the civil service of the State and all of its civil divisions shall be made from civil service lists after examination, which as far as practicable shall be competitive.

The proposed statute is in conflict with that provision of the Constitution, and is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Amend the Highway Law in Relation to Motor
Driven Ambulances**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 21, 1923.

Memorandum filed with Assembly Bill, Introductory Number 1815, Printed Number 2182, entitled:

“AN ACT to amend the highway law, in relation to motor driven ambulances.”

NOT APPROVED.

This bill is disapproved because I am unable to understand why ambulances operated for profit should be exempted from the taxation comprehended within the provisions of the motor vehicle law. For a long while the statute has provided immunity from taxation for ambulances used exclusively for charitable purposes, and that is as it should be; but there is no reason why commercial ambulances should be exempted when they are operating for profit.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH

To Amend the Judiciary Law Authorizing Justices of the Appellate Division of the Second, Third and Fourth Departments to Provide Necessary Furnishings, Equipment and Supplies for Such Courts

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 21, 1923.

Memorandum filed with Assembly Bill, Introductory Number 1208, Printed Number 1299, entitled:

“AN ACT to amend the judiciary law, authorizing the justices of the appellate division in each of the second, third and fourth departments to provide the necessary furnishings, equipment and supplies, et cetera, for each of said courts.”

NOT APPROVED.

This bill is disapproved because I believe the policy a sound one that puts upon the Central Bureau of Purchase and the Board of Estimate and Control the duty of supplying the various equipment, printing and supplies required in the Appellate Divisions of the Supreme Court mentioned in the bill.

(Signed) ALFRED E. SMITH.

To Amend the Education Law in Relation to Positions in the Law Library of the Court of General Sessions

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Senate Bill, Introductory Number 1398, Printed Number 1559, entitled:

“AN ACT to amend the education law, in relation to the law library of the court of general sessions of the city and county of New York.”

NOT APPROVED.

This bill seeks to create additional positions in the law library of the Court of General Sessions in the county of New York. Aside entirely from whether or not such positions are

needed, they can be created by the judges themselves under the provisions of the act which created the library.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Highway Law by Providing That the Expense of Construction and Repair of State Highway Bridges in Towns Having One Million Dollars or Less of Taxable Property Shall be Borne by the State

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Assembly Bill, Introductory Number 1871, Printed Number 2299, entitled:

“AN ACT to amend the highway law, in relation to construction and repair of bridges upon state highways in towns having one million dollars or less of taxable property.”

NOT APPROVED.

This bill seeks to amend the highway law to provide that the expense of construction, reconstruction and repair of bridges upon State highways located in towns where the assessed valuation is one million dollars or less, shall be borne by the State, and that the work of such construction, reconstruction or repairs shall be done by the State Commissioner of Highways.

There are three hundred and fifty-eight such towns in the State and five hundred and seventy-five towns with a valuation in excess of one million dollars. A very large number of the latter class are slightly over the one million dollar mark, and in nearly all such cases the road mileage in the towns is considerable more than many of the towns whose assessed valuation run below it. It seems unfair to draw an arbitrary line at the million dollar assessment valuation and entirely overlook the important factors of bonded indebtedness and the number and condition of the bridges in the various towns.

For the above reasons the bill is disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Education Law in Relation to the Bureau of Compulsory Education, School Census and Child Welfare in Cities of the First Class Having a Population of One Million or More

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Senate Bill, Introductory Number 1967, Printed Number 2393, entitled:

“AN ACT to amend the education law, in relation to the bureau of compulsory education, school census, and child welfare in cities of the first class having a population of one million or more.”

NOT APPROVED.

This bill seems to be in conflict with the Constitution by excepting from appointment from eligible lists attendance officers and supervising attendance officers above the grade of district supervising attendance officers in the Department of Education. It is certainly in violation of the general principle as to the selection of school officers and other civil service employees.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

Authorizing the City of Niagara Falls to Repay Certain Void and Illegal City Taxes

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Assembly Bill, Introductory Number 863, Printed Number 1707, entitled:

“AN ACT authorizing the repayment by the city of Niagara Falls to certain taxpayers of such city of moneys paid under a void and illegal city tax requiring abutting property owners to pay the cost of the construction of the decorative lighting system on Third street and Main street in such city.”

NOT APPROVED.

This bill was returned not accepted by the Mayor of the city of Niagara Falls. No memorandum of any kind was filed with the bill to indicate the legislative intent in the re-passage of the bill over the express disapproval of the Mayor of the city.

For that reason the bill is disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Education Law in Relation to the Rules and Regulations for Retirement System in Public Institutions of Higher Learning

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Senate Bill, Introductory Number 56, Printed Number 56, entitled:

“AN ACT to amend the education law, in relation to the rules and regulations for the retirement system in public institutions of higher learning.”

NOT APPROVED.

The matter sought to be taken care of by this bill is already cared for in a bill which I approved this day.

This bill is therefore unnecessary and for that reason is disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Education Law in Relation to the Establishment of Law Library in the County of Queens

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Senate Bill, Introductory Number 1851, Printed Number 2216, entitled:

“AN ACT to amend the education law, in relation to establishing a law library in the county of Queens.”

NOT APPROVED.

This is a mandatory bill compelling the trustees of the law library in the county of Queens to appoint a librarian and fixing his salary. It further compels the comptroller of the city of New York to issue revenue bonds to provide funds to pay the salary herein provided.

Aside from this very objectionable feature, the trustees by law now have the power to employ and appoint such persons as they think necessary for the proper care and management of the library, and discretion is given to the board of estimate and apportionment as to the sums of money they deem advisable. This discretionary power is stricken from the law by this bill, which adds further to its mandatory features not only as to the additional position but as to all other employees and supplies and equipment needed.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Highway Law in Relation to the Construction of County Roads in Certain Cities of the Third Class

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Assembly Bill, Introductory Number 672, Printed Number 689, entitled:

“AN ACT to amend the highway law, in relation to the construction of county roads in certain cities of the third class.”

NOT APPROVED.

This bill would permit funds appropriated for the help of country communities to be used for the construction of streets in cities of the third class.

If this were to be carried out generally throughout the State, such cities, with their power on the boards of super-

visors, would get an unfair proportion of the money, if, in fact, they are entitled to any. The policy of making appropriations to help country communities was upon the theory that they were unable to raise all of the money themselves, and the roads to be constructed or repaired under this particular appropriation were intended to be feeders to the main highways, so that the products of the farms might more easily be brought to the centers of population. I am afraid that the operation of this bill, should I permit it to become law, would defeat the original purpose for which these appropriations were authorized.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

Authorizing the State Engineer and Surveyor to Prepare a Base Map of the State

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 24, 1923.

Memorandum filed with Senate Bill, Introductory Number 419, Printed Number 423, entitled:

“AN ACT to authorize the preparation of a base map of the state by the state engineer and surveyor, and making an appropriation therefor.”

NOT APPROVED.

There is no need for the work called for by this bill being performed this year. Furthermore, it is certified to me that it could not be done for less than twice the amount of money herein provided.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Tax Law Imposing a Tax Upon Residents of the State and Upon Persons Transacting Business Therein, Insured Against Loss of Property by Insurers Not Authorized to Transact Business in the State

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 28, 1923.

Memorandum filed with Senate Bill, Introductory Number 1690, Printed Number 2289, entitled:

“AN ACT to amend the tax law and to impose a tax upon residents of the state and upon persons transacting business therein, insured against loss of property by insurers not authorized to transact business in the state.”

NOT APPROVED.

This bill seeks to impose a tax upon residents of our State and upon persons transacting business therein, insured against loss of property by insurers not authorized to transact business in the State.

This bill would hit very hard at men engaged in the shipping business and who are unable to get a full insurance coverage in New York companies. I do not believe, when our New York companies are unable to write the insurance, that any penalty should attach to the insured for seeking protection to his property elsewhere. It was brought out at the hearing that the United American Line, recently seeking four million dollars' coverage on specie shipped abroad, was unable to write more than a small portion of the insurance in this State. Under the provisions of this bill, a tax would run to the insured of twenty-five per cent on the insurance written with companies not authorized to transact business in this State.

This is not the time to handicap men who are endeavoring to build up an American merchant marine nor is it the time to add to the cost of doing business in this State, and particularly at the Port of New York.

For the above reasons, the bill is disapproved.

(Signed) ALFRED E. SMITH.

**To Amend the General City Law in Relation to the Driving
of Cattle Through the Streets of New York City**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 28, 1923.

Memorandum filed with Senate Bill, Introductory Number 752, Printed Number 798, entitled:

“AN ACT to amend the general city law, in relation to the driving of cattle through the streets of certain cities.”

NOT APPROVED.

This bill seeks to regulate the driving of cattle through the streets of New York City by an amendment of the General City Law written in terms that make it apply solely to the City of New York.

Aside from the merits of the question, the bill is disapproved because section fifty of the Greater New York charter confers full and complete power upon the Board of Aldermen to regulate this matter by local ordinance.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Amend the Election Law in Relation to Publication
of Places for Registration and Election**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Senate Bill, Introductory Number 1486, Printed Number 1942, entitled:

“AN ACT to amend the election law, in relation to publication of places for registration and elections.”

NOT APPROVED.

This bill is intended to restore and to even somewhat increase the publication in various newspapers of a list of the places of registration and polling places and a description of the boundaries of election districts in which such registration and polling places are located.

It is certified to me by various local authorities throughout the State that this is a senseless and a useless expenditure of public money. Certainly no evidence has been presented to justify the restoration of all this printing and advertising, much less the extension of it.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Amend the New York City Municipal Court Code,
Providing for Additional Justices, Clerks and Other
Subordinates**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Senate Bill, Introductory Number 1163, Printed Number 1654, entitled:

“AN ACT to amend the New York city municipal court code, providing for the appointment and election of additional justices and for the appointment of additional clerks and other subordinates.”

NOT APPROVED.

I am unwilling to give my approval to any bill creating additional judges in either New York or Kings county while the Municipal Court Act remains on the statute books as it is today. It needs amendment very badly.

I would suggest that the Bar Association appoint committees to confer with the Chief Justice of the Municipal Court looking to a general revision of the Municipal Court Act at the next session of the Legislature.

The bill is disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Election Law in Relation to the Form and Contents of Register in City of Over One Million Inhabitants

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Senate Bill, Introductory No. 935, Printed No. 935, entitled:

“AN ACT to amend the election law, in relation to the form and contents of register in a city of over one million inhabitants.”

NOT APPROVED.

I am compelled to disapprove this bill, as it amends a section of the election law which has been already amended this year, and this bill does not include the amendment previously approved.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Amend the General City Law and the General Business Law in Relation to Miniature Motion Picture Apparatus

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Assembly Bill, Introductory No. 573, Printed No. 2077, entitled:

“AN ACT to amend the general city law, in relation to miniature picture apparatus.”

and Assembly Bill, Introductory No. 574, Printed No. 2119, entitled:

“AN ACT to amend the general business law, in relation to requirements for miniature cinematograph machines.”

NOT APPROVED.

These bills are disapproved because of the strong recommendation against their enactment by the local authorities of the City of New York. I am particularly impressed by the statement of the Chief of the Bureau of Fire Prevention of the Fire Department, who pointed out at the hearing that the introduction of projecting machines capable of being operated with inflammable film presents a dangerous fire hazard.

For this reason the bill is disapproved.

(Signed) ALFRED E. SMITH.

**Bills Affecting the City of New York — Mandatorily
Increasing Salaries, Increasing Fixed Charges Against
the City or Embodying Provisions Beyond the Control
of the Board of Estimate and Apportionment**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with the following bills: Senate Bill, Int. No. 1404, Printed No. 1573, entitled:

“AN ACT in relation to the bond of the register of the county of Bronx and official searches in his office.”

Senate Bill, Int. No. 1533, Printed No. 1769, entitled:

“AN ACT to amend the county law, in relation to the powers and duties of the register of the county of Bronx.”

Senate Bill, Int. No. 751, Printed No. 827, entitled:

“AN ACT to amend chapter two hundred and thirty of the laws of eighteen hundred and ninety-eight, entitled ‘An Act in relation to the public administrator of the county of New York, defining his rights, powers, duties and obligations’ in relation to the assistant public administrator.”

Senate Bill, Int. No. 322, Printed No. 322, entitled:

“AN ACT to amend chapter seven hundred and seventy-two of the laws of eighteen hundred and ninety-six, entitled ‘An Act in relation to the office of the district attorney of the county of Kings, providing for the election of district attorney, and the appointment of clerks, stenographers and county detectives for said office,’ in relation to compensation of certain clerks in such office.”

Senate Bill, Int. No. 323, Printed No. 323, entitled:

“AN ACT to amend chapter seven hundred and four of the laws of nineteen hundred and one, entitled ‘An Act to make the clerk of the County of Kings a salaried office, and regulating the management of said office,’ in relation to the compensation and number of clerks and other employees in such office.”

Senate Bill, Int. No. 1274, Printed No. 1413, entitled:

“AN ACT to amend chapter five hundred and forty-eight of the laws of nineteen hundred and twelve, entitled ‘An Act to erect the county of Bronx from the territory now comprised within the limits of the borough of Bronx, in the city of New York, as constituted by chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven and all acts amendatory thereof and supplemental thereto,’ in relation to compensation of certain employees.”

Senate Bill, Int. No. 941, Printed No. 1021, entitled:

“AN ACT to amend the code of criminal procedure, in relation to compensation of probation officers in cities of the first class containing a population of one million or over.”

Assembly Bill, Int. No. 360, Printed No. 360, entitled:

“AN ACT to amend chapter seven hundred and six of the laws of nineteen hundred and one, entitled ‘An

Act to make the office of register of the county of Kings a salaried office and regulating the management of said office,' in relation to the salaries of employees."

Assembly Bill, Int. No. 1264, Printed No. 2366, entitled:

"AN ACT to amend chapter one hundred and seventy-one of the laws of nineteen hundred and four, entitled 'An Act to provide for the continuance of the office of commissioner of records of the county of Kings, and for the completion and care of the block indexes and reindexing plant, and for the care and preservation of the county records, old town and other records,' in relation to the compensation of the commissioner of records, clerks and employees in said office."

Assembly Bill, Int. No. 398, Printed No. 398, entitled:

"AN ACT to amend the judiciary law, in relation to the appointment and compensation of confidential clerk to the county court of Richmond county."

NOT APPROVED.

These bills either mandatorily increase salaries in counties comprehended within Greater New York, or increase fixed charges against the city, or put into the statute law beyond the control of the board of estimate and apportionment definite salaries to be paid to county officials.

All of this constitutes a violation of the home rule principle. All charges against the five counties of Greater New York were, by a special act of the Legislature in 1922, made city charges. These bills really should have gone to the Mayor, for his approval or otherwise. In fact, without them being so sent to him, he has specifically expressed his disapproval of each and every one of them, and not without good cause. In view of the fact that the Board of Estimate and Apportionment is permitted by statute specially enacted at this session of the Legislature to reopen and revise the budget so that it may keep within the estimated revenues of the city for the next

calendar year, any additional charges to be put upon the public funds of the city should be done by the board of estimate and apportionment. It is the directing body of the city, charged by her people with the management of its financial affairs. They should not be lumbering up the legislative files, and there is no excuse or reason for having men from all over the State voting away the money of the taxpayers of the city of New York. It should be discouraged.

For all of the above reasons, these bills are disapproved.

(Signed) ALFRED E. SMITH.

Making an Appropriation for the Widening and Deepening of Tannery Creek, Allegany County

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Assembly Bill, Int. No. 1284,
Printed No. 1381, entitled:

“AN ACT to provide for the widening and deepening of Tannery creek, a canal feeder to the Genesee Valley canal in Allegany county, and making an appropriation therefor.”

NOT APPROVED.

If the purpose of this bill is to deepen or improve any creek or feeder to the State canal, sufficient appropriation has been made to the Superintendent of Public Works to take care of it. If not, it is a local improvement and should be done by the locality.

For these reasons the bill is disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Highway Law in Relation to the Designation of a System of State and County Highways to be Constructed and Maintained by the State and to Approve Map upon Which Such System is Designated

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill, Int. No. 1654, Printed No. 2106, entitled:

“AN ACT to amend the highway law, in relation to the designation of a system of state and county highways to be constructed and maintained by the state, and to approve a map upon which such system is designated.”

NOT APPROVED.

In 1920 and 1921 there was presented to the Legislature a highway map drawn by the engineers of the Highway Department, who, aside from their technical and engineering training, are familiar with the geography, topography and the population of our different counties, and are unquestionably the men properly equipped to draw a comprehensive map for road improvement.

During 1920 no consideration was given to the map by the Legislature, but instead they appointed a committee to take a junketing trip around the state and after the expenditure of a considerable amount of money they submitted a map which was adopted by chapter eighteen of the laws of 1921. That the engineers were brushed aside and that political influence dictated the location of certain roads on that map, there can be no doubt. It contained many of what were called dead-end roads. Many of them did not meet the approval of certain counties, and I am informed that those counties are even today reluctant to provide their share of the money for the construction of some of these roads. The best evidence that the map was entirely unsatisfactory to the localities was shown by the presentation during this session just past of nearly one

hundred bills seeking to amend the map. Many of them were with merit, most of them were without it.

In order to meet the situation, the present Commissioner of Highways revised and resubmitted the old map on March twenty-eighth of this year. The map and the accompanying bill were unanimously adopted by the Senate. When the bill reached the Assembly, it met with opposition, and while unwilling to stand against it they destroyed its effectiveness and made it ridiculous by adding unnecessary and unneeded roads.

The following is the result of the Assembly amendments:

1. The addition of eight hundred miles of road which would cost about thirty-two million dollars to construct.
2. The striking off of seventy-six miles of roads shown on the department's map; some of which are necessary links to a completed state system of highways.
3. The addition of nine dead-end roads, which end nowhere and are left hanging in the air.
4. Much of this new mileage parallels adjacent roads already built or designated for improvement.
5. Six of the roads added by amendments lead to points so unimportant that the Highway Department has been unable to locate them on any map or atlas of the state.
6. There is added at the end of the bill a provision which requires every road designated in each county on the map adopted in 1921 to be built before a new road can be advertised for contract.

Although it may be to the best interests of the state and may make for a more connected highway system to build some of the recently added roads, by the provisions of this rider none of them can be built until all the roads on the 1921 map are constructed. This would operate to prevent the building of the Veteran Mountain Camp road for which a special act with appropriation was passed during this session.

This is only one evidence to the people of the State of New York of the evil of political legislative tinkering with the road maps of this state. The people of our State never intended that the members of the Legislature were to perform administrative duties. The laying out and construction of roads is an administrative duty. We have a corps of competent engineers who have been in the employ of the state for a great many years and if the Legislature would leave them alone, these engineers would give us a connected and a comprehensive state highway system that would be designed to meet the needs of the greatest number of our people; but as long as political and legislative tinkering continue to dictate by law to the Highway Department, we must expect the same chaos and disorder that grew out of the performance of this year's legislature.

For all of the above reasons, the bill is disapproved.

(Signed) ALFRED E. SMITH.

Bills Proposing the Incorporation of Companies for the Construction and Operation of Vehicular Tunnels Between New York and New Jersey

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Assembly Bill, Introductory Number 956, Printed Number 2267, entitled:

“AN ACT to incorporate the Interstate Vehicular Tunnels Company, and to authorize the acquisition of lands and the construction, maintenance and operation of a tunnel or tunnels, with the necessary approaches thereto for vehicular and pedestrian traffic under the Hudson River, between the states of New York and New Jersey, and to define the rights of the state and the city of New York respecting such tunnel or tunnels.”

and Senate Bill, Introductory Number 1750, Printed Number 2168, entitled:

“AN ACT to incorporate the Harlem and Bergen Tunnel Corporation, and to authorize the acquisition of lands and the construction, maintenance and operation of a tunnel or tunnels, with the necessary approaches thereto, for vehicular and pedestrian traffic under the Hudson river, between the states of New York and New Jersey, and to define the rights of the state and the city of New York respecting such tunnel or tunnels.”

NOT APPROVED.

Both of these bills propose the incorporation of companies for the purpose of constructing between New York and New Jersey vehicular tunnels. There is such a tunnel now in process of construction, to be owned and operated by the states of New York and New Jersey. By statute, in both of these states, a comprehensive plan for the future development of the port of New York, jointly between the two states, has been adopted and ratified by the Congress of the United States.

I do not believe it to be a very wise policy to give away to any private corporation the right to construct and operate so important a utility as a tunnel between the two states. I make no mention of the necessity for them. I believe that the old ferry systems are inadequate, and the time is close at hand when connections between the two states must be made, but when made it should be done under public auspices and for public benefit, and not for private profit.

Section 6 of the comprehensive plan now the law of this state, says:

“The determination of the exact location, system and character of each of the said tunnels, bridges, belt lines, approaches, classification yards, warehouses, terminals or other improvements shall be made by the Port Authority after public hearings and further study, but in general, the location thereof shall be as indicated upon the said map, and as herein described.”

The section just quoted has reference to the comprehensive plan but it must be obvious that if additional tunnels are to be added for any purpose unless the city itself should desire to construct and own by agreement with any municipality in New Jersey, they should be constructed by and under the direction of the Port Authority, as under such plan they would be state owned without the necessity for the appropriation of public money.

For the above reasons the bills are disapproved.

(Signed) ALFRED E. SMITH

**Granting Consent of the State of New York to Occupation
by the United States of Land Under Water in Raritan
Bay for Lighthouse Purposes**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill, Introductory Number 1802, Printed Number 2132, entitled:

“AN ACT granting the consent of the state of New York to the occupation by the United States of a certain piece of land under water in Raritan Bay, New York, for Lighthouse purposes, and ceding jurisdiction over the same.”

NOT APPROVED.

This bill contains no provision for the return to the state of this land when the Federal Government has ceased to use it for lighthouse purposes. Such a provision should be in the bill, as we are confronted at the present time with a situation at Sands Point, Long Island, where the Federal Government has offered at public auction a piece of property originally ceded to it by this state which is no longer needed for lighthouse purposes, and did so merely because the deed did not contain a provision looking to the return of the property to the state when the Federal Government ceased to use it for the purposes for which it was ceded.

For that reason the bill is disapproved.

(Signed) ALFRED E. SMITH

Establishing the Office of Register of Deeds in Queens County

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill, Introductory Number 1561, Printed Number 1765, entitled:

“AN ACT establishing the office of register of deeds in and for the county of Queens, and providing for the election of a register of deeds.”

NOT APPROVED.

This bill is opposed by the Mayor of the City of New York who, in a written memorandum to me, says:

“I see no reason for the creation of the office of register of deeds for the county of Queens, especially at this time when city officials are so hard pressed to secure funds to finance the activities of the departments now in existence.”

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH

To Amend the County Law — Providing for the Election of Additional County Judge in the County of Queens and in Relation to the Salary of County Judges in Such County

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill, Int. No. 1675, Printed No. 1923, entitled:

“AN ACT to amend the county law, in relation to an additional county judge in the county of Queens, and in relation to the compensation of the county judges in such county.”

NOT APPROVED.

This bill is disapproved upon the express recommendation of the Mayor of the City of New York, who states to me that the city officials are hard pressed to find funds to finance the activities of departments now in existence. He further certifies that the work of the county court in Queens County is not sufficient to warrant an additional county judge.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Amend the Election Law in Relation to Tally of Votes
for Presidential Electors**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill Int. No. 931, Printed No. 1011, entitled:

“AN ACT to amend the election law, in relation to tally of votes for presidential electors.”

NOT APPROVED.

This bill has been improperly drawn as to subject matter and has no relation whatever to the section it purports to amend.

It must therefore be disapproved.

(Signed) ALFRED E. SMITH.

**To Amend the Judiciary Law in Relation to Stenographers
of the Supreme Court**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill, Int. No. 658, Printed No. 694, entitled:

“AN ACT to amend the judiciary law, in relation to the stenographers of the supreme court.”

NOT APPROVED.

This bill is disapproved because it fails to carry an appropriation and cannot in any way be made effective without one.

(Signed) ALFRED E. SMITH.

To Amend the Judiciary Law in Relation to the Compensation of the Consultation Clerk to the Justices of the Appellate Division of the Fourth Department

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill, Int. No. 402, Printed No. 692, entitled:

“AN ACT to amend the judiciary law, in relation to the compensation of the consultation clerk to the justices of the appellate division of the fourth department.”

NOT APPROVED.

This bill cannot be made effective as it fails to carry the necessary appropriation and is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Judiciary Law in Relation to Deputy Clerks in the Second Judicial Department

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill, Int. No. 1521, Printed No. 1726, entitled:

“AN ACT to amend the judiciary law, in relation to deputy clerks in second judicial department.”

NOT APPROVED.

This bill is ineffective as no appropriation has been made for the payment of the salaries therein spoken of.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Repeal Section Four Hundred Fifty-seven-a of the Civil Practice Act, Relating to Direction of a Verdict

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 31, 1923.

Memorandum filed with Assembly Bill, Int. No. 432, Printed No. 1028, entitled:

“AN ACT to repeal section four hundred fifty-seven-a of the civil practice act, relating to direction of a verdict.”

NOT APPROVED.

This bill seeks to repeal section four hundred and fifty-seven-a of the civil practice act. This provision was put in the Civil Practice Act by chapter three hundred and seventy-two of the laws of nineteen hundred and twenty-one upon the express recommendation of the Committee of the Convention to Formulate Rules of Civil Practice. It has not been in the Civil Practice Act for sufficient length of time to determine whether it will work out to advantage or disadvantage and should not be repealed at this time.

For the above reasons I disapprove this bill.

(Signed) ALFRED E. SMITH.

Legalizing Taxes Imposed on Shares of National and State Banks in Years Nineteen Hundred and Twenty, Twenty-one and Twenty-two; Providing for Refund of Income Taxes Paid on Dividends of Such Shares and Other Moneyed Capital; Providing for Tax of One Per Cent on Moneyed Capital for Such Years and for Refund of Interest and Penalties Heretofore Paid.

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, June 1, 1923.

Memorandum filed with Senate Bill, Int. No. 1820, Printed No. 2150, entitled:

“AN ACT legalizing, ratifying and confirming taxes imposed, levied and assessed upon the shares of national and state banks in the years nineteen hundred and twenty, nineteen hundred and twenty-one and nineteen hundred and twenty-two; providing for the refund of income taxes paid on dividends on such bank shares and other moneyed capital in said years, and providing for a tax for such years on moneyed capital of persons, firms and corporations; and providing for a refund of interest and penalties on taxes heretofore paid upon the shares of national and state banks in said years and an extension of the time of payment of any such taxes not yet paid, to the thirty-first of December, nineteen hundred and twenty-three.”

NOT APPROVED.

This bill was introduced at the request of the officials of the city of New York for the purpose of validating the taxes levied upon the State and National banks for the years 1920, 1921 and 1922, which taxes for the years 1920 and 1921 were held to be invalid by the Court of Appeals in its decision in the recent Hanover National Bank case.

Realizing that the bill would be a subject of considerable litigation, the various parties interested, I am informed, have reached an understanding whereby the State and National

banks in the city of New York are going to adjust the taxes for the years 1920, 1921 and 1922 on the basis of a payment of fifty per cent of the principal by the National banks for the years 1920, 1921 and 1922, and by the State banks of fifty per cent, payment for the years 1920 and 1921 and one hundred per cent, for the year 1922.

For the purpose of informing all of the municipalities and banks affected, I understand that the New York State Bankers Association have communicated the terms of the settlement to all of its members. I also understand that the Secretary of the Mayors' Conference has communicated with the officials of the various municipalities of the State. I am also informed that the Comptroller of the city of New York has communicated with officials of counties throughout the State, giving them the terms of settlement and the form of contract which the city of New York proposes to use in settlement of these taxes with the banks in New York City.

Because of the very limited time allowed for the consummation of this settlement it may not be possible to hear from all the parties affected but it is expected by those who are in touch with the subject that, in view of the fact that this litigation was initiated by the large National Banks of New York City, the banks outside of New York City will be inclined to follow the lead of the New York City banks in their settlement of these unpaid taxes.

I have been requested by the Comptroller of the city of New York in a letter dated May twenty-second, 1923, that because of this settlement I disapprove the bill. His action in this matter has been approved by the Board of Estimate and Apportionment of the city of New York and reference is made by the Comptroller in his letter to the resolution adopted by that Board.

I am advised that all but one of the responses received by the Secretary of the Mayors' Conference have favored the settlement and that included in these responses are the larger municipalities of the State to which this question is of the greatest importance, because of the fact that they have within their confines the greater number of these banking institutions.

Of the parties interested in this the one municipality responding unfavorably is, I understand to have another conference and it is expected that the matter will be adjusted satisfactorily.

With this information at hand, I am complying with the request and disapprove the bill. To take any other action would mean that these settlements involving upwards of fifteen million dollars would be null and void as they have been made conditional upon the vetoing of this bill.

In a communication received from the Comptroller of the city of New York, he makes mention of the fact that the banks which are parties to the settlement are desirous of being taxed on an income tax basis. I am advised that the Special Joint Legislative Committee on Taxation and Retrenchment, in their written report, have recommended the adoption, under certain conditions, of such a change in our form of taxation of banks and trust companies. At a conference at the Executive Chamber on the date of the hearing on the Walker-Donohue bill, Senate Print 2331, representatives of the banks expressed a similar desire. The banks contend that the tax on an ad valorem basis imposes an unequal burden on different banking institutions, that it also penalizes the conservative institution which, for the protection of its depositors, adopts a policy of accumulating a large surplus. They also submit that they should be taxed on the same basis and at the same rate as manufacturing and mercantile corporations. I am informed that they have stated as their opinion that the revenue which would be realized by the municipalities from adopting the income tax basis as a method of taxing banks and trust companies and other moneyed capital in competition with national banks would yield to the municipalities more taxes than they are receiving at the present time from the same source.

I make mention of these points in this memorandum as I intend to send a copy of it, together with a copy of communication received from the New York City Comptroller, to the Special Joint Legislative Committee on Taxation and Retrenchment, with the request that they continue the study of the subject and consult with the parties affected during the

present year and be prepared to make their recommendations to the next Legislature.

I, therefore disapprove this bill.

(Signed) ALFRED E. SMITH.

Proposing to Extend Application of Emergency Rent Laws

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, June 2, 1923

Memorandum filed with Senate Bill Int. No. 639, Assembly Reprint No. 2420, entitled:

“AN ACT extending the time of application of and construing certain acts of the years nineteen hundred and twenty and nineteen hundred and twenty-one, relating to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in certain cities, and to summary proceedings to recover the possession of real property in certain cities.”

NOT APPROVED.

This bill proposes to extend the application of the emergency rent laws from the time at present fixed for their expiration, February, 1924, to the first day of May, 1924.

It is our purpose not to permit these laws to remain on the statute books any longer than is absolutely necessary and we have taken the essential steps to have available for the next session of the Legislature a proper body of information. I have recently signed the bill creating in the office of the State Architect, a Housing Board upon which the Legislature has laid the specific duty of reporting to them and to me in January, 1924, whether the housing emergency will still be in effect at that time to such an extent as to necessitate the continuance of the emergency rent laws. To sign this bill will be in conflict with the work of this Board.

This bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Amend the Tenement House Law in Relation to Three-Family Converted Dwellings

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, June 2, 1923.

Memorandum filed with Assembly Bill, Int. No. 1545,
Printed No. 2190, entitled:

“AN ACT to amend the tenement house law, in relation
to three-family converted dwellings.”

NOT APPROVED.

While I very fully appreciate the necessity for providing more housing facilities in New York, I nevertheless can not bring myself to a frame of mind that would permit me to sign this bill.

Light and ventilation to the open air in toilets in tenement houses has been, since the passage of the original statute, one of the cardinal features of the law. Within the last two weeks I signed a bill creating, in the office of the State Architect, a Bureau of Housing, and they are to be charged with the duty of making a study throughout the State of housing conditions generally. I will submit this matter to them with the request that they gather together the best medical and scientific opinions upon this subject and be prepared to report back to the Legislature and to myself early in January, 1924. This I deem to be the wisest move for me to make under the circumstances. I am entirely unwilling, without better advice than I now have, to put my name to any bill that will make possible, even in the future, any return to conditions that make for unclean and unsanitary living quarters.

For these reasons the bill is disapproved.

(Signed) ALFRED E. SMITH.

SPECIAL CLAIM BILLS

**To Confer Jurisdiction Upon the Court of Claims to Hear
and Determine Claim of Charles Savary**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 29, 1923

Memorandum filed with Assembly Bill, Int. No. 816,
Printed No. 845, entitled:

“AN ACT to confer jurisdiction upon the court of claims to hear and determine the claim of Charles Savary against the state for compensation which he would have received as an employee of the state in excess of compensation paid to him for the performance of his duty in the military service of the United States between August second, nineteen hundred and sixteen, and March eighth, nineteen hundred and nineteen.”

NOT APPROVED.

This bill is disapproved because of the presence in the files of the Executive Department of a report from the Adjutant General of the State of New York, dated March 2, 1921, in which is set forth in great detail the history of this matter and which indicates that there is no liability upon the part of the State.

The bill is disapproved.

(Signed) ALFRED E. SMITH.

**To Confer Jurisdiction upon the Court of Claims to Hear
and Determine Claims of Nelson Learn and Agnes
Learn**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Senate Bill, Int. No. 186, Printed
No. 186, entitled:

“AN ACT to confer jurisdiction upon the court of claims to hear, audit and determine the claims of Nelson Learn and Agnes Learn against the state for dam-

ages alleged to have been sustained by reason of the negligence of the state to maintain and keep in repair the bridge crossing the outlet to Cuba lake, Allegany county."

NOT APPROVED.

It appears from a reading of this bill that it is drawn to circumvent a decision already rendered which holds that the State is not liable in a tort action unless it has expressly assumed a liability. If this act were to become a law the State would, under it, assume a liability for an alleged tort, or, in other words, for the negligence of one of its employees in failing to keep the bridge in proper repair.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Confer Jurisdiction Upon the Court of Claims to Hear
and Determine Claim of Francis Normandin**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Assembly Bill, Int. No. 1463,
Printed No. 1574, entitled:

"AN ACT to confer jurisdiction upon the court of claims to hear, audit and determine the claim of Francis Normandin against the state for personal injuries alleged to have been sustained while performing military service at Glens Falls, New York, on or about the third day of February, nineteen hundred and twenty, and to render judgment therefor."

NOT APPROVED.

Nothing in this bill or in the supporting memorandum . . . convinces me that there is any liability in this matter on the part of the State.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Confer Jurisdiction Upon the Court of Claims to Hear
and Determine Claim of Ida M. Reed Administratrix
of the Estate of Merritt Lewis Reed**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Assembly Bill, Int. No. 1340,
Printed No. 1437, entitled:

“AN ACT to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of Ida M. Reed, personally and as administratrix of the estate of Merritt Lewis Reed, deceased, against the state for damages for the death of said deceased, alleged to have occurred as the result of the negligence of a superior fellow employee, or both, in the employ of the state at Saranac Lake on the thirteenth day of May, nineteen hundred and nineteen, and authorizing such court to render judgment therefor.”

NOT APPROVED.

Nothing in this bill or the memorandum supporting it indicates to me in the slightest degree any liability for this accident upon the part of the State.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Confer Jurisdiction Upon the Court of Claims to Hear
and Determine Claim of Sarah O'Brien**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Assembly Bill, Int. No. 871,
Printed No. 903, entitled:

“AN ACT to confer jurisdiction on the court of claims to hear, try and determine the alleged claim of

Sarah O'Brien against the state for damages for personal injuries sustained by the alleged negligence of the state hospital at Utica in not having properly lighted a stairway thereat where said Sarah O'Brien was employed."

NOT APPROVED.

Nothing in this bill or in the memorandum supporting it indicates to me in the slightest degree any negligence on the part of the State for this accident.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Confer Jurisdiction Upon the Court of Claims to Hear and Determine Claims Against the State for Damages Resulting from Appropriation by the State of Certain Property for Construction of Canals and Canal Terminals

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Assembly Bill, Int. No. 1174, Printed No. 1259, entitled:

"AN ACT to confer jurisdiction upon the court of claims to hear, audit and determine claims against the state for damages for or on account of the appropriation of property in connection with the construction of improved canals and canal terminals, and by reason of change of grade of highways on streets caused by changing the bridges and approaches thereto, and to render judgment therefor."

NOT APPROVED.

I am unable to approve this bill because it removes all restrictions as to the time within which to file notice of claim against the State. The cases which it was probably drawn to take care of have all become the subject of special bills.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Confer Jurisdiction Upon the Court of Claims to Hear
and Determine Claim of Sarah E. Lembeck**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Senate Bill, Int. No. 1665, Printed
No. 1913, entitled:

“AN ACT conferring jurisdiction on the court of claims
to hear, audit and determine the alleged claim of
Sarah E. Lembeck, individually and as executrix
and trustee of the last will and testament of Henry
F. Lembeck, deceased, against the state for prop-
erty damages by reason of the overflow of Mill
or Glen creek, in Schuyler county.”

NOT APPROVED.

Nothing in this bill or the supporting memorandum gives me
any good reason for approving it, and it is therefore dis-
approved.

(Signed) ALFRED E. SMITH.

**To Confer Jurisdiction Upon the Court of Claims to Hear
and Determine Certain Claims Against the State
Resulting From Overflow of Mohawk River at or Near
Schenectady**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 29, 1923.

Memorandum filed with Assembly Bill, Int. No. 654,
Printed No. 667, entitled:

“AN ACT to confer jurisdiction upon the court of claims
to hear, audit and determine certain claims against
the state for damages alleged to have been sus-
tained by reason of the overflow of the canalized
Mohawk river at and near Schenectady, by reason

of the alleged construction and maintenance of the Vischer Ferry dam, and to render judgment therefor."

NOT APPROVED.

This claim against the State is so old that the State would be entirely without defense if the bill were to become a law. It seems to me that if any real damage were done in this case it should have been brought out at a time when the State was in a position to defend itself.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

To Confer Jurisdiction Upon the Court of Claims to Hear and Determine Certain Claims Against the State for Alleged Breach of Option Covering Certain Premises in the Town of Marcy

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Assembly bill, Int. No. 787, Printed No. 810, entitled:

"AN ACT to confer jurisdiction on the court of claims to hear, audit and determine the alleged claims of a certain person or of persons against the state for damages alleged to have been sustained by reason of a breach of option covering certain premises situate in the town of Marcy, New York, and to render judgment therefor."

NOT APPROVED.

Through the secretary of the State Hospital Commission, I am informed that in the opinion of the commission there is neither a legal nor a moral claim incurred because of our failure to exercise the option which we had on property at the site of the Marcy Hospital.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Confer Jurisdiction Upon the Court of Claims to Hear
and Determine Claim of Alfred J. McClurg**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, May 30, 1923.

Memorandum filed with Senate Bill, Int. No. 982, Printed
No. 1079, entitled:

"AN ACT to confer jurisdiction on the court of claims
to hear, audit and determine the claim of Alfred J.
McClurg against the state for damages alleged to
have been sustained by reason of the construction
of the barge canal through Genessee Valley park,
in the city of Rochester, New York."

NOT APPROVED.

Nothing in this bill or in the memorandum supporting it
indicates to my mind that there is any liability on the part of
the State for the damages alleged to have been sustained by
the person in whose interests the bill was introduced.

The bill is therefore disapproved.

(Signed) ALFRED E. SMITH.

**To Confer Jurisdiction Upon the Court of Claims to Hear
and Determine Claim of the Herkimer Lumber
Company**

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, June 1, 1923.

Memorandum filed with Assembly Bill, Int. No. 809, Printed
Number 832, entitled:

"AN ACT to confer jurisdiction upon the court of claims
to hear, try, audit and determine the claim of the
Herkimer Lumber Company, and to render judgment
therefor."

NOT APPROVED.

This claim has been once tried in the Court of Claims under a similar enabling act and the Court of Claims awarded a judgment thereon exceeding one hundred thousand dollars. This judgment was upon appeal to the Appellate Division unanimously reversed. The Attorney-General vigorously protests against the signing of this bill in its present form and insists that in its present form all that it would be necessary for the claimant to do would be to again appear before the Court of Claims and present the record made upon the former trial, and that this would be unfair to the State as it would preclude the State from offering any new testimony in reference to the damages claimed to have been suffered. This construction may or may not be correct but it is open, at least, to serious question.

It is conceded that this claimant is entitled to some damages by reason of the interference of the State by an injunction, which delayed the removing of the timber upon a tract of land over which a dispute arose as to the title between the State and the Herkimer Lumber Company, in which litigation it was decided that the contention of the State was wrong and that the State did not have title to the strip of land and therefore the injunction somewhat delayed the removal of the timber therefrom.

It is conceded that this claimant was damaged to some extent but it was vigorously stated by the Attorney-General that the award made is away out of proportion to any damages that may have been suffered, and it would therefore be unfair to the State to preclude it from defending this claim upon the question of the extent of the damages.

If a bill was presented to me eliminating this uncertainty and requiring a re-trial of this action before the Court of Claims, I should be inclined to approve the same, but in view of the opposition of the Attorney-General and the uncertainty that exists as to the wording of this act, I must disapprove the same.

(Signed) ALFRED E. SMITH.

Special City Bills Not Approved For the Reason That They Were not Accepted by the Cities Affected

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, June 2, 1923.

Memorandum filed with the bills specified below:

NOT APPROVED.

The following bills have not been approved for the reason that they are special city bills and were not accepted by the cities in question in accordance with Article XII, Section 2, of the State Constitution:

Assembly Bill, Int. No. 1161, Printed No. 2225, entitled:

"AN ACT to provide for the reassessment and relieving by the city of Little Falls of certain unpaid taxes upon the property upon which such taxes were originally assessed and levied."

Senate Bill, Int. No. 1220, Printed No. 1341, entitled:

"AN ACT to amend chapter eight hundred and seventy of the laws of nineteen hundred and eleven, entitled 'An Act to consolidate and revise the laws relating to the city of Lockport,' in relation to paving main thoroughfares."

Assembly Bill, Int. No. 1067, Printed No. 1125, entitled:

"AN ACT to amend the charter of the City of Mount Vernon, in relation to discounts on second half of taxes paid in advance."

Assembly Bill, Int. No. 160, Printed No. 2422, entitled:

"AN ACT to amend the Greater New York Charter, in relation to the New York City employees' retirement system, and the retirement of employees of libraries, museums, gardens and institutes."

Assembly Bill, Int. No. 359, Printed No. 2402, entitled:

"AN ACT to amend the Greater New York Charter, in relation to the establishment of the College of Kings County."

Assembly Bill, Int. No. 430, Senate Reprint No. 2306, entitled:

“AN ACT to amend the Greater New York Charter, in relation to the reinstatement of resigned policemen.”

Assembly Bill, Int. No. 484, Printed No. 488, entitled:

“AN ACT to amend the Greater New York Charter, in relation to the salary of the city clerk.”

Assembly Bill, Int. No. 517, Printed No. 1594, entitled:

“AN ACT to amend the Greater New York Charter, in relation to the pension payable to members of the police force.”

Senate Bill, Int. No. 638, Printed No. 669, entitled:

“AN ACT to amend the Greater New York Charter, in relation to the boiler squad of the police department of New York City.”

Assembly Bill, Int. No. 643, Printed No. 1593, entitled:

“AN ACT to amend the Greater New York Charter, in relation to hours of labor of employees of the department of correction.”

Assembly Bill, Int. No. 734, Printed No. 753, entitled:

“AN ACT to amend the Greater New York Charter, in relation to the licensing of public hacks and drivers thereof.”

Assembly Bill, Int. No. 776, Printed No. 799, entitled:

“AN ACT to amend the Greater New York Charter, in relation to the retirement of teachers under the teachers' retirement system of such city.”

Senate Bill, Int. No. 863, Printed No. 941, entitled:

“AN ACT to amend the Greater New York Charter, in relation to the New York city employees' retirement system.”

Assembly Bill, Int. No. 952, Printed No. 986, entitled:

“AN ACT to amend the Greater New York Charter, in relation to defining the uniformed force of the department of correction and regulating the procedure in case of dismissal or removal from office of any member of the uniformed force.”

Assembly Bill, Int. No. 1010, Printed No. 1064, entitled:

"AN ACT to amend the Greater New York Charter, in relation to pensions to dependents of members of the fire department."

Senate Bill, Int. No. 1047, Printed No. 1144, entitled:

"AN ACT to amend the Greater New York Charter, in relation to employees' retirement system."

Senate Bill, Int. No. 1050, Printed No. 1147, entitled:

"AN ACT to amend the Greater New York Charter, in relation to the employees' retirement system."

Assembly Bill, Int. No. 1106, Printed No. 2344, entitled:

"AN ACT to amend the Greater New York Charter, in relation to the retirement system for officers and employees."

Senate Bill, Int. No. 1161, Printed No. 1834, entitled:

"AN ACT to amend the Greater New York Charter, by adding a new section to provide for a uniformed force in the bureau of fire prevention of the fire department, transferring thereto present employees of said bureau, and providing for the government and discipline thereof and pensions therefor."

Assembly Bill, Int. No. 1164, Printed No. 1249, entitled:

"AN ACT to amend chapter twenty-six, as added by chapter four hundred and twenty-seven of the laws of nineteen hundred and twenty to the Greater New York charter as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, in relation to the New York city employees' retirement system."

Assembly Bill, Int. No. 1186, Printed No. 1271, entitled:

"AN ACT to amend the Greater New York Charter, in relation to the employees' retirement system."

Assembly Bill, Int. No. 1187, Printed No. 1272, entitled:

"AN ACT to amend the Greater New York Charter, in relation to the employees' retirement system."

Assembly Bill, Int. No. 1188, Printed No. 1273, entitled:
"AN ACT to amend the Greater New York Charter, in relation to the employees' retirement system."

Senate Bill, Int. No. 1296, Printed No. 1435, entitled:
"AN ACT to amend the Greater New York Charter, in relation to matrons in the department of correction."

Senate Bill, Int. No. 1324, Assembly Reprint No. 2417, entitled:

"AN ACT to amend the Greater New York Charter, in relation to the membership of the retirement system."

Assembly Bill, Int. No. 1376, Printed No. 2179, entitled:
"AN ACT to amend the Greater New York Charter, in relation to pensions payable to members of the police force of the city of New York."

Assembly Bill, Int. No. 1442, Printed No. 2136, entitled:
"AN ACT to amend the Greater New York Charter, in relation to leaves of absence to per diem employees."

Assembly Bill, Int. No. 1453, Printed No. 2030, entitled:
"AN ACT to amend the Greater New York Charter, in relation to salaries in the street cleaning department of such city."

Senate Bill, Int. No. 1540, Printed No. 1744, entitled:
"AN ACT to amend the Greater New York Charter, in relation to retirement of teachers of Hunter College."

Senate Bill, Int. No. 1814, Printed No. 2144, entitled:
"AN ACT to amend the Greater New York Charter, by providing for a retirement system for officers and employees whose compensation in whole or in part is payable out of the treasury of the city of New York, in relation to members who have been discontinued from city service."

Senate Bill, Int. No. 1892, Printed No. 2264, entitled:
"AN ACT to amend the Greater New York Charter, in relation to chaplains of the police department."

Assembly Bill, Int. No. 367, Printed No. 367, entitled:

"AN ACT authorizing the equalization of pensions of retired firemen and policemen in cities of one million population and over, in certain cases."

Assembly Bill, Int. No. 373, Printed No. 373, entitled:

"AN ACT to authorize the reinstatement in the police department of the city of New York, of Frank Deery, former patrolman, who resigned from such position in the year nineteen hundred and eighteen."

Assembly Bill, Int. No. 438, Printed No. 442, entitled:

"AN ACT to authorize the reinstatement in the police department of the city of New York, of Neil McEwen, former patrolman, who resigned from such position in the year nineteen hundred and nineteen."

Assembly Bill, Int. No. 454, Printed No. 458, entitled:

"AN ACT authorizing the police commissioner of the city of New York to rehear and retry the charges upon which Charles W. Oehler, formerly a member of the police department of such city, was dismissed from such position, and to reinstate him in the position formerly held by him."

Assembly Bill, Int. No. 518, Printed No. 522, entitled:

"AN ACT to authorize the reinstatement in the police department of the city of New York of Henry Muller, formerly patrolman, who resigned from such position in the year nineteen hundred and eighteen."

Senate Bill, Int. No. 574, Printed No. 595, entitled:

"AN ACT to authorize the police commissioner of the city of New York to increase the pension of Cornelius B. Doherty to an amount not exceeding three-fourths of the salary paid to him at the date of his retirement."

Assembly Bill, Int. No. 579, Printed No. 589, entitled:

"AN ACT to authorize the reinstatement in the police department of the city of New York, of Edward

J. Lafferty, former patrolman, who resigned from such position in the year nineteen hundred and eighteen."

Assembly Bill, Int. No. 599, Printed No. 609, entitled:

"AN ACT authorizing the police commissioner of the city of New York to restore Stephen W. Furlong to the rank held by him in the police department prior to the twenty-ninth day of March, nineteen hundred and eleven."

Assembly Bill, Int. No. 601, Printed No. 611, entitled:

"AN ACT to provide for the expense of widening and extending Elm street in the borough of Manhattan, city of New York."

Assembly Bill, Int. No. 762, Printed No. 782, entitled:

"AN ACT authorizing reinstatement in the fire department of the city of New York of Joseph Dale, who resigned from such department in the year nineteen hundred and eighteen."

Senate Bill, Int. No. 799, Printed No. 852, entitled:

"AN ACT to authorize the board of assessors of the city of New York to make awards for damages caused by the change of grade on Ocean Avenue, Brooklyn."

Assembly Bill, Int. No. 821, Printed No. 850, entitled:

"AN ACT authorizing the police commissioner of the city of New York to rehear the charges upon which John J. Post, formerly a patrolman of the police force of such city, was dismissed from such department and to reinstate him in the position formerly held by him."

Senate Bill, Int. No. 834, Printed No. 902, entitled:

"AN ACT authorizing the police commissioner of the city of New York to rehear the charges upon which Michael Imbriale, formerly a member of the uniformed force of the police department of such city, was dismissed from such department in the year nineteen hundred and eighteen, and to reinstate him in the position formerly held by him."

Assembly Bill, Int. No. 844, Printed No. 873, entitled:

"AN ACT authorizing the police commissioner of the city of New York to increase the pension of Patrick A. O'Keefe, formerly a member of the police department of such city."

Assembly Bill, Int. No. 847, Printed No. 876, entitled:

"AN ACT conferring jurisdiction on the police commissioner of the city of New York to grant a pension to Barbara Neville, the widow of Daniel J. Neville, formerly a patrolman in the police department of such city."

Senate Bill, Int. No. 883, Printed No. 961, entitled:

"AN ACT authorizing the board of estimate and apportionment of the city of New York to refund to Arnold Toynbee House, a membership corporation, a certain tax paid by said corporation upon property exempt by law from taxation."

Assembly Bill, Int. No. 949, Printed No. 1913, entitled:

"AN ACT to empower the board of assessors of the city of New York to estimate and allow damages sustained by owners of certain real property abutting upon the easterly side of Park Avenue, between Fortieth and Forty-first Streets, in the borough of Manhattan, city of New York, by reason of the erection and construction of the bridge or viaduct for carrying the central portion of Park Avenue from the northerly line of Fortieth street to the northerly line on Forty-second street, in the borough of Manhattan, city of New York."

Assembly Bill, Int. No. 953, Printed No. 987, entitled:

"AN ACT conferring jurisdiction on the police commissioner of the city of New York to grant a pension to Louise Motz, the widow of Otto W. Motz, formerly a patrolman of the police department of such city."

Senate Bill, Int. No. 1057, Printed No. 1154, entitled:

"AN ACT to repeal chapter seven hundred and twenty of the laws of nineteen hundred and seventeen,

entitled 'An act creating a commission to investigate the surface railroad situation in the city of New York, on the West side, as affected by the enactment of chapter seven hundred and seventy-seven of the laws of nineteen hundred and eleven, and making an appropriation therefor,' and abolishing such commission."

Assembly Bill, Int. No. 1103, Printed No. 1161, entitled:

"AN ACT authorizing the police commissioner of the city of New York to hear the charges upon which George E. Decker, formerly a patrolman of the police force of such city, was dismissed from such department and to reinstate him in the position formerly held by him."

Senate Bill, Int. No. 1192, Printed No. 1308, entitled:

"AN ACT authorizing the department of education of the city of New York to hear the claim of B. Stella W. O'Neil for arrears of salary alleged to have been earned as a member of the teaching staff of such department."

Senate Bill, Int. No. 1284, Printed No. 1423, entitled:

"AN ACT to authorize the reinstatement in the police department of the city of New York of Charles J. Moresco, formerly patrolman, who resigned from such position in the year nineteen hundred and twenty."

Senate Bill, Int. No. 1325, Printed No. 1479, entitled:

"AN ACT authorizing the police commissioner of the city of New York to rehear the case of William Albers, formerly a patrolman in the police department of such city, and to reinstate him in the position formerly held by him."

Assembly Bill, Int. No. 1339, Printed No. 1436, entitled:

"AN ACT to amend chapter one hundred and fifty-two of the laws of eighteen hundred and ninety-four, entitled 'An Act providing for the improvement of the land and water front adjacent to Riverside park in the city of New York by extending and

improving said park and regulating the use of said land and water front,' in relation to the maintenance of objectionable businesses upon certain lands in the city of New York."

Senate Bill, Int. No. 1344, Printed No. 1498, entitled:

"AN ACT to authorize the reinstatement in the police department of the city of New York of Abraham Solomon, who resigned from such position in the year nineteen hundred and nineteen."

Assembly Bill, Int. No. 1386, Printed No. 1482, entitled:

"AN ACT authorizing and empowering the board of estimate and apportionment of the city of New York to pay the claim of Stephen Fuller, of Purdy Station, New York, for injuries alleged to have been sustained by him while in the employ of such city."

Senate Bill, Int. No. 1387, Printed No. 1548, entitled:

"AN ACT to amend the inferior criminal courts act of the city of New York, in relation to jurisdiction of court of special sessions."

Senate Bill, Int. No. 1388, Printed No. 1933, entitled:

"AN ACT to amend the inferior criminal courts act of the city of New York, in relation to appeals from city magistrates."

Assembly Bill, Int. No. 1403, Printed No. 1511, entitled:

"AN ACT authorizing the police commissioner of the city of New York to rehear the charges upon which William Clancy, formerly a patrolman in the police department of said city, was dismissed from said department in the year nineteen hundred and seventeen and to reinstate him in the position formerly held by him."

Senate Bill, Int. No. 1427, Printed No. 1604, entitled:

"AN ACT to authorize the police commissioner of the city of New York to increase the pension of James M. Cusack to an amount not exceeding the salary paid to him at the date of his retirement."

Assembly Bill, Int. No. 1434, Printed No. 1542, entitled:

"AN ACT authorizing the police commissioner of the city of New York to rehear the charges upon which Stephen J. Reagan, formerly a patrolman in the police department of such city, was dismissed from such department, and to reinstate him in the position formerly held by him."

Assembly Bill, Int. No. 1441, Printed No. 1549, entitled:

"AN ACT conferring jurisdiction on the police commissioner of the city of New York to increase the pension heretofore awarded to Elizabeth Moriarty, the widow of John Moriarty, a former police officer of such city."

Senate Bill, Int. No. 1449, Printed No. 1626, entitled:

"AN ACT to amend the inferior criminal courts act of the city of New York, in relation to magistrate court districts in the borough of Richmond of such city."

Senate Bill, Int. No. 1480, Printed No. 1670, entitled:

"AN ACT to amend the New York city municipal court code, in relation to salaries of justices."

Senate Bill, Int. No. 1552, Printed No. 1756, entitled:

"AN ACT to amend chapter seven hundred and one of the laws of nineteen hundred and four, entitled 'An Act relating to appointment of employees of the fire department of the city of New York to the uniformed force of the said department,' in relation to marine engineers attached to the civilian force of such department."

Assembly Bill, Int. No. 1629, Printed No. 1845, entitled:

"An Act to amend the inferior criminal courts act of the city of New York, in relation to the parts of such courts."

Senate Bill, Int. No. 1651, Printed No. 1894, entitled:

"AN ACT to amend the inferior criminal courts act of the city of New York, in relation to salaries of city magistrates."

Senate Bill, Int. No. 1714, Printed No. 1984, entitled:

"AN ACT providing for the laying out, opening and improving of a public street or streets adjoining the southerly and easterly sides of the station building of the New York Central Railroad Company, between Forty-second and Forty-fifth streets, and adjoining the northerly building line of Forty-third street extended, between the station building of the New York Central Railroad Company and Lexington avenue, in the borough of Manhattan, city of New York.

Senate Bill, Int. No. 1799, Printed No. 2129, entitled:

"AN ACT to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An Act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' in relation to the disposition of property held by the district attorney of the county of New York."

Senate Bill, Int. No. 1881, Printed No. 2253, entitled:

"AN ACT authorizing the police commissioner of the city of New York to reinstate John J. Keating in the position of patrolman of the police department of such city."

Assembly Bill, Int. No. 684, Printed No. 1915, entitled:

"AN ACT to amend the Tonowanda City Charter generally."

Assembly Bill, Int. No. 1307, Printed No. 1404, entitled:

"AN ACT adding to the police department of the city of Yonkers as patrolmen all persons now appointed and now acting as so-called hostlers, janitors and doormen in the department of public safety."

(Signed) ALFRED E. SMITH.

OMNIBUS VETO

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, June 2, 1923.

Memorandum filed with bills specified below:

NOT APPROVED.

The following bills are not approved because they are either duplicates or unnecessary, or defectively drawn, or are embraced in or in conflict with bills already signed, or are unconstitutional, or are for purposes which can be suitably accomplished under general laws, or should be provided for, if at all, by amendment to the general laws, or are objectionable or inadvisable by reason of proposed changes.

Assembly Bill, Int. No. 1216, Printed No. 2374, entitled:

“AN ACT creating a commission to erect a monument on the Santiago battlefield to the memory of the Seventy-first New York Volunteer Infantry in the Spanish-American war, and making an appropriation therefor.”

Assembly Bill, Int. No. 715, Printed No. 731, entitled:

“AN ACT making an appropriation for the acquisition by the conservation commission of certain suitable equipment for the distribution of trout, and authorizing the commission to assign such equipment to the Rome Fish and Game Protective Association, Incorporated, for use in its work of co-operating with the commission in stocking the public waters of the state with trout.”

Senate Bill, Int. No. 1795, Printed No. 2125, entitled:

“AN ACT to provide for the creation and management of the Flint Mine Hill State Reservation and for the purchase of lands, and making an appropriation therefor.”

Assembly Bill, Int. No. 1604, Printed No. 1807, entitled:

“AN ACT to amend chapter eight hundred and eighty-five of the laws of eighteen hundred and ninety-six,

entitled 'An Act in relation to the office of county clerks, where additional duties have been imposed upon them by article six of the constitution of eighteen hundred and ninety-four,' in relation to the salaries of such clerks."

Assembly Bill, Int. No. 1342, Printed No. 2363, entitled:

"AN ACT to amend chapter thirty-six of the laws of nineteen hundred and three, entitled 'An act to make the office of sheriff of Clinton County a salaried office, in part, and to regulate the management thereof,' in relation to the employees of the sheriff and their salaries."

Senate Bill, Int. No. 472, Printed No. 481, entitled:

"AN ACT to amend the civil practice act, in relation to maps of real property and judgments, decrees or orders in actions in courts of record affecting real property as evidence."

Assembly Bill, Int. No. 516, Printed No. 520, entitled:

"AN ACT to amend the civil service law, in relation to removal of employees in cities of the first class of over five hundred thousand population and less than one million."

Senate Bill, Int. No. 345, Printed No. 2297, entitled:

"AN ACT to amend the civil service law, in relation to suspension and reinstatement of employees and repealing certain sections relating to employment of persons in the federal military or naval service."

Assembly Bill, Int. No. 1783, Printed No. 2129, entitled:

"AN ACT to amend the civil service law, in relation to county officers and employees eligible for retirement through the state employees' retirement system."

Assembly Bill, Int. No. 446, Printed No. 1872, entitled:

"AN ACT to amend the civil service law, in relation to retiring certain veterans and pensioning them."

Assembly Bill, Int. No. 1276, Printed No. 1374, entitled:

“AN ACT conferring jurisdiction upon the court of claims to hear and determine the claims of the representatives of Thomas O’Grady, deceased, against the state for services and expenses in connection with the alleged murders of Charles R. Phelps, and Margaret Phelps, and the case of the people against Charles F. Steilow.

Assembly Bill, Int. No. 135, Printed No. 135, entitled:

“AN ACT to confer jurisdiction upon the court of claims to hear and determine the claim of the Peter Keeler Building Company against the state for money expended by it for additional labor and overtime work under a contract for the erection and completion of the poultry building at the state fair grounds near Syracuse, New York.”

Assembly Bill, Int. No. 1338, printed No. 1435, entitled:

“AN ACT to confer jurisdiction on the court of claims to hear, try and determine the claims of Charles M. Allen; Frank B. Dilts and Bert W. Bennett; Volney Paper Company; Taylor Brothers and Company; Dutcher Machine Company; Victoria Paper Mills Company; Ransom B. True and George E. True; and David Mason, George E. Mason and Albert B. Mason, against the state of New York, for damages alleged to have resulted from canal construction, use and management in or near the city of Fulton.”

Assembly Bill, Int. No. 407, Printed No. 407, entitled:

“AN ACT conferring jurisdiction on the court of claims to hear, audit and determine the alleged claim of Anthony Addario against the state for damages for personal injuries, and to render judgment therefor.”

Assembly Bill, Int. No. 602, Printed No. 612, entitled:

“AN ACT to confer jurisdiction upon the court of claims to hear, audit and determine the claims of Louise L. Groess and George E. Groess against the state

for damages alleged to have been sustained by them on July nineteenth, nineteen hundred and nineteen, growing out of personal injuries received by Louise L. Groess while sitting on a public bench located in grounds surrounding the State School for the Blind, located at Batavia, New York, by reason of the breaking of a large decayed limb from a tree located therein, and to render judgment therefor."

Senate Bill, Int. No. 1691, Printed No. 1961, entitled:

"AN ACT to confer jurisdiction on the court of claims to hear, audit and determine the claim of William S. Jackson against the state for legal services performed during the years nineteen hundred and twenty and nineteen hundred and twenty-one, as special counsel to the public service commission, first district, and to make an award therefor."

Assembly Bill, Int. No. 1479, Printed No. 2372, entitled:

"AN ACT to amend the code of criminal procedure, in relation to the unlawful search of persons and premises for intoxicating liquor."

Assembly Bill, Int. No. 925, Printed No. 957, entitled:

"AN ACT to amend the conservation law, in relation to angling for bass or in bass waters."

Assembly Bill, Int. No. 858, Printed No. 2195, entitled:

"AN ACT to amend the membership corporations law, in relation to the rights of cemetery lot owners in cities of the first class."

Senate Bill, Int. No. 578, Printed No. 2089, entitled:

"AN ACT to amend the domestic relations law, in relation to adoption."

Assembly Bill, Int. No. 1053, Printed No. 2227, entitled:

"AN ACT to amend the education law relative to the schedule of salaries of teachers in the State College for Teachers and the state normal schools."

Assembly Bill, Int. No. 1326, Printed No. 1423, entitled:

"AN ACT to amend the election law, with respect to

general and branch offices of boards of elections in the city of New York."

Senate Bill, Int. No. 944, Printed No. 1024, entitled:

"AN ACT to amend the election law, in relation to removal of election officers."

Assembly Bill, Int. No. 1671, Printed No. 1902, entitled:

"AN ACT to amend the election law, in relation to canvass of votes by inspectors."

Assembly Bill, Int. No. 288, Printed No. 288, entitled:

"AN ACT to amend the election law, in relation to declination of a party nomination made at a primary election."

Assembly Bill, Int. No. 1747, Printed No. 2044, entitled:

"AN ACT to amend the election law, in relation to determinations by county and city canvassing boards."

Assembly Bill, Int. No. 1847, Printed No. 2243, entitled:

"AN ACT to amend the election law, in relation to the equipment of registration and polling places by board or body designating such places."

Senate Bill, Int. No. 1919, Printed No. 2321, entitled:

"AN ACT to amend the election law, in relation to method of canvassing ballots."

Senate Bill, Int. No. 1917, Printed No. 2319, entitled:

"AN ACT to amend the election law, in relation to investigations of qualifications of voters and to challenge lists."

Assembly Bill, Int. No. 1146, Printed No. 1225, entitled:

"AN ACT to amend the executive law, in relation to the power of attorneys to administer oaths and certify proofs and acknowledgments."

Assembly Bill, Int. No. 1637, Printed No. 1949, entitled:

"AN ACT to amend the state finance law, in relation to payments to the state treasurer by commissioners of the Palisades Interstate park and the commissioners of the Allegany state park."

Senate Bill, Int. No. 1147, Printed No. 2401, entitled:

"AN ACT to amend the state finance law by establishing a conservation fund and regulating the disposition thereof."

Senate Bill, Int. No. 1229, Printed No. 1350, entitled:

"AN ACT to authorize the commissioners of the land office to grant to the village of Great Neck Estates in the County of Nassau land under waters of Little Neck bay for public purposes."

Senate Bill, Int. No. 860, Printed No. 2053, entitled:

"AN ACT to amend the highway law, in relation to registration of motor vehicles owned by certain hospitals and charitable institutions."

Assembly Bill, Int. No. 1569, Printed No. 1727, entitled:

"AN ACT creating the office of commissioner of jurors for each of the counties of the state of New York having a population of more than three hundred and fifty thousand and less than four hundred thousand."

Assembly Bill, Int. No. 1877, Printed No. 2394, entitled:

"AN ACT to amend chapter four hundred and forty-one of the laws of eighteen hundred and ninety-nine, entitled 'An Act to create a commissioner of jurors in the several counties of this state,' in relation to appointment and compensation of all employees."

Senate Bill, Int. No. 1248, Printed No. 1777, entitled:

"AN ACT to amend the judiciary law, in relation to the salaries of attendants and messengers in the surrogate's court of Bronx County."

Assembly Bill, Int. No. 400, Printed No. 1020, entitled:

"AN ACT to amend the judiciary law, in relation to the appointment and compensation of special deputies to the clerk of the county of Richmond."

Senate Bill, Int. No. 1137, Printed No. 1237, entitled:

"AN ACT to amend the judiciary law, in relation to the salary of official interpreters for the supreme court in the first judicial district."

Senate Bill, Int. No. 1291, Printed No. 1846, entitled:

“AN ACT to amend the judiciary law, in relation to the salary of official interpreters for the supreme court in the first judicial district.”

Assembly Bill, Int. No. 1436, Printed No. 1544, entitled:

“AN ACT to amend the judiciary law, in relation to the compensation of officers of the county court of Kings County.”

Assembly Bill, Int. No. 1367, Printed No. 2336, entitled:

“AN ACT to amend the charter of the city of Long Beach, generally.”

Assembly Bill, Int. No. 1238, Printed No. 1332, entitled:

“AN ACT to amend the labor law, in relation to the application of the article relating to public safety to certain agricultural societies and associations.”

Senate Bill, Int. No. 626, Printed No. 657, entitled:

“AN ACT to amend the New York city municipal court code, in relation to marshal's fees.”

Senate Bill, Int. No. 1058, Printed No. 1155, entitled:

“AN ACT to amend chapter seven hundred and seventy-two of the laws of eighteen hundred and ninety-six, entitled, ‘An Act in relation to the office of district attorney of the County of Kings, providing for the election of district attorney and the appointment of clerks, stenographers and county detectives for said office,’ in relation to compensation of county detectives.”

Assembly Bill, Int. No. 1076, Printed No. 1134, entitled:

“AN ACT to amend chapter four hundred and twelve of the laws of nineteen hundred and seven, entitled ‘An Act providing for the court of general sessions of the city and county of New York, its judges and officers.’ in relation to the retirement of its officers and employees.”

Senate Bill, Int. No. 1459, Printed No. 2302, entitled:

“AN ACT to amend chapter five hundred and forty-eight of the laws of Nineteen hundred and twelve, entitled ‘An Act to erect the county of Bronx from the territory now comprised within the limits of

the borough of Bronx, in the city of New York, as constituted by chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven and all acts amendatory thereof and supplemental thereto,' in relation to salary of certain employees."

Assembly Bill, Int. No. 1508, Printed No. 1637, entitled:

"AN ACT to amend chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six, entitled, 'An Act granting to the United States the right to acquire the right of way necessary for the improvement of the Harlem River and Spuyten Duyvil Creek from the North River to the East River through the Harlem Kills, and ceding jurisdiction over the same,' in relation to authorizing the canal board to sell buildings and structures, including trade fixtures, located upon the land acquired by the state, pursuant to the provisions of said act."

Senate Bill, Int. No. 1821, Printed No. 2151, entitled:

"AN ACT to amend chapter five hundred and twenty-three of the laws of eighteen hundred and ninety, entitled 'An Act in relation to the office of sheriff of the city and county of New York,' in relation to mileage."

Assembly Bill, Int. No. 358, Printed No. 1196, entitled:

"AN ACT to amend the penal law, in relation to the penalty for pool-selling, bookmaking, bets and wagers."

Assembly Bill, Int. No. 843, Printed No. 1916, entitled:

"AN ACT to amend the penal law, in relation to Sunday observance."

Senate Bill, Int. No. 924, Printed No. 1771, entitled:

"AN ACT to amend the public health law, in relation to examination of dentists."

Senate Bill, Int. No. 348, Printed No. 1594, entitled:

"AN ACT to amend the public health law, in relation to licensing barbers."

Assembly Bill, Int. No. 1655, Printed No. 1877, entitled :

“AN ACT to amend the real property law, in relation to tenants holding over after the expiration of the term created by the lease or rental agreement.”

Assembly Bill, Int. No. 1251, Printed No. 1345, entitled :

“AN ACT to amend the real property law, in relation to authentication of a certificate of acknowledgment or proof.”

Assembly Bill, Int. No. 1354, Printed No. 1450, entitled :

“AN ACT to amend the charter of the city of Rochester, generally.”

Assembly Bill, Int. No. 1352, Printed No. 2311, entitled :

“AN ACT to amend the charter of the city of Rochester, generally.”

Senate Bill, Int. No. 865, Printed No. 2031, entitled :

“AN ACT to amend the charter of the city of Rochester, generally.”

Assembly Bill, Int. No. 967, Printed No. 1001, entitled :

“AN ACT to amend the surrogate's court act, in relation to the amount allowable for counsel fees in the settlement of estates.”

Senate Bill, Int. No. 720, Printed No. 762, entitled :

“AN ACT to amend the surrogate's court act, in relation to compensation of appraisers.”

Assembly Bill, Int. No. 1838, Printed No. 2234, entitled :

“AN ACT to amend the surrogate's court act, in relation to payment of legacies.”

Senate Bill, Int. No. 201, Printed No. 201, entitled :

“AN ACT to amend the town law, in relation to expense of maintenance of highways in separate road districts.”

Assembly Bill, Int. No. 1887, Printed No. 2403, entitled :

“AN ACT to amend the town law, in relation to establishing parks in certain counties, and providing money to pay therefor.”

(Signed) ALFRED E. SMITH.

V
MEMORANDA ON LEGISLATIVE BILLS
APPROVED

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V

MEMORANDA ON LEGISLATIVE BILLS
APPROVED

To Amend the Tax Law in Relation to Exemption from
Local Taxation of New Buildings Erected for Dwelling
Purposes

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 16, 1923.

Memorandum filed with Senate Bill, Introductory Number 1369, Printed Number 1934, entitled:

“AN ACT to amend the tax law in relation to exemption
from local taxation of new buildings erected for
dwelling purposes.”

APPROVED.

I stated in my message to the Legislature on March 28th, 1923, that while there has been unprecedented building activity, costs continue very high and the housing supply is still far from adequate.

I also called attention to the fact that “any sudden falling off of building operations at this time would tend to renew the very conditions with which the State had to deal so heroically in 1920, and might necessitate an indefinite extension of the rent laws.”

Information which has come to me recently and reports published by real estate associations within the past week convince me that the housing emergency still exists and in order to continue the encouragement of building operation, I am signing this bill.

(Signed) ALFRED E. SMITH.

**To Amend the Public Health Law in Relation to State
Aid to Counties Engaging in Public Health Work**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Assembly Bill, Introductory Number 1886, Printed Number 2392, entitled:

“AN ACT to amend the public health law, in relation to state aid to counties engaging in public health work.”

APPROVED.

In affixing my signature to this bill I feel that I should call the attention of the people of the State to what I believe to be a forward step looking to the preservation of the public health of our State.

In my first administration it was called to my attention that in certain localities of the State there were not sufficient doctors to take care of the needs of the population and that as the older doctors were passing out the field offered no inducement to young men, as they were lacking in laboratory, hospital, clinic and dispensary facilities so necessary in this day of advanced medical science.

This bill encourages the establishment of such facilities in parts of the State where they are needed by extending State aid to counties which will engage in this very necessary public health work.

The bill is therefore approved.

(Signed) ALFRED E. SMITH.

**Increasing Number of Justices of the Supreme Court in the
First Judicial District**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Senate Bill, Introductory Number 166, Printed Number 1462, Assembly Reprint Number 2408, entitled:

"AN ACT to increase the number of justices of the supreme court in the first judicial district of the state and providing for four additional justices therein."

APPROVED.

I am informed that on May fifteenth last there were twenty-seven thousand untried cases on the calendars of the Supreme Court in New York County and upwards of one thousand untried cases in Bronx County.

From this it seems evident that there is need for a permanent increase in the judicial forces. Litigants in the right should not have their causes defeated by undue delay.

For this reason I am approving this bill.

(Signed) ALFRED E. SMITH.

To Amend the Civil Rights Law in Relation to the Regulation of Membership and Unincorporated Associations

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 22, 1923.

Memorandum filed with Senate Bill, Introductory Number 845, Printed Number 2199, entitled:

"AN ACT to amend the civil rights law, in relation to the regulation of membership corporations and unincorporated associations in their activities affecting the rights and privileges of citizens."

APPROVED.

I am accepting this bill because I am firmly of the belief that no honestly intentioned membership corporation having a membership of twenty or more persons should have any objection to filing with the Secretary of State a copy of its constitution, by-laws, rules, regulations and oath of membership, together with a roster of its membership and a list of its officers for the current year, and file from time to time amendments to such constitution, by-laws, rules, regulations, or oath of membership, as well as a statement showing the names and addresses

of the additional members added from time to time to its rolls.

A distinct benefit to the State itself will undoubtedly flow from the provisions of section 54 of the act. The people of this State have a right to know when any corporation passes resolutions of any kind that provide for concerted action to either promote or defeat legislation, federal, state or municipal. They should also know when resolutions are passed calling for the support or the defeat of any candidate for public office.

The State imposes very severe restrictions upon political parties and upon corporations generally which attempt to promote or defeat legislation. No group of men should be permitted to operate in the dark. No harm can come to any such membership corporation if its intentions and purposes are honest.

For these reasons the bill is approved.

(Signed) ALFRED E. SMITH.

Repealing Sections of Education Law in Relation to the Qualifications of Teachers and the Licensing and Supervision of Schools and School Courses

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 25, 1923.

Memorandum filed with Senate Bill, Introductory Number 41, Printed Number 41, entitled:

“AN ACT to repeal section five hundred and fifty-five-a of the education law, relating to the qualifications of teachers.”

and Senate Bill, Introductory Number 42, Printed Number 42, entitled:

“AN ACT to repeal section seventy-nine of the education law, relating to licensing and supervision of schools and school courses.”

APPROVED.

I am affixing my signature to the two acts which have for their purpose the repeal of the so-called Lusk Laws. I am

satisfied that they should not remain upon the statute books of this State, because they are repugnant to the fundamentals of American democracy. Under the laws repealed teachers, in order to exercise their honorable calling, were in effect compelled to hold opinions as to governmental matters deemed by a State officer consistent with loyalty; and, further, no private school could be maintained in this State unless its teachings were similarly satisfactory to certain officials of the State. Freedom of opinion and freedom of speech were by these laws unduly shackled, and an unjust discrimination was made against the members of a great profession.

In signing these bills, I firmly believe that I am vindicating the principle that, within the limits of the penal law, every citizen may speak and teach what he believes.

(Signed) ALFRED E. SMITH.

Repealing Article 113 of the Penal Law and Section 11-b Chapter Five of Title Two and Section 802-b of the Code of Criminal Procedure, Relating to the Manufacture and Sale of Alcoholic Liquors

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, June 1, 1923.

Memorandum filed with Assembly Bill, Introductory Number 1614, Printed Number 1817, entitled:

“AN ACT to repeal article 113 of the penal law and section 11-b, chapter five of title two and section 802-b of the code of criminal procedure, relating to the manufacture and sale of alcoholic liquors.”

APPROVED.

The bill under consideration proposes to repeal Article 113 of the Penal Law which enacted into the statute laws of the State substantially the provisions of the Volstead Act.

Because of the far reaching interest in this bill displayed by all classes of our people, I have given nearly one month of solid and careful thought to its final disposition. I deem it

wise to go into some detail in order to clear up misunderstanding on the part of a great many of the people who have written or spoken to me about it, and to make clear the reasons for the action I am taking.

It is furthest from my thoughts to question the motives of the men and women of integrity throughout the State, who with an eye single to the right and the just, have arrayed themselves on different sides of the question presented. Some seem to think that my approval will mean the preservation of American institutions. Many others impelled by equally patriotic motives seem to feel that my approval will be destructive of American government. Obviously, both cannot be right and I have therefore given careful study to the question involved and the arguments submitted in order that my final disposition of it may be in full and complete accord with what my conscience dictates.

A brief review at this time of the entire question at issue so far as the State of New York is concerned would be helpful. The Eighteenth Amendment to the Federal constitution was ratified by the Legislature of this State at the session of 1919. In 1920 the same Senate and an Assembly presided over and directed by the same leaders enacted the so-called 2.75 per cent beer and wine bill. This bill I approved. It was afterwards held unconstitutional and the United States Supreme Court declared in rendering its decision that the word "concurrent" in the Eighteenth Amendment referred only to concurrence in legislation which Congress passed to execute the provisions of the Eighteenth Amendment and did not permit the states to adopt a definition of an intoxicating beverage inconsistent with the definition contained in the Federal law. In short the State is therefore limited in defining an intoxicating beverage to one containing not more than one-half of one per cent of alcohol.

In 1922 the Democratic State Convention inserted in its platform a plank favoring an amendment to the Volstead Act which would permit the states under certain restrictions and after popular referendum to permit traffic in light wines and beer not regarded as intoxicating beverages. That platform and the candidates who ran upon it received the overwhelming support of the people of this State at the last election. I cite

all this merely as indicating by history the attitude of a majority of the people of this State toward this whole question. Nevertheless, it is a fact that the Eighteenth Amendment is the law of the land and no one suggests, least of all the Legislature of this State or myself, that it should be violated.

In 1921 there was enacted in this State, what has come to be known as the Mullan-Gage Law. It put into the penal statutes substantially all of the provisions of the Volstead Act, but accompanied them by even more rigorous provisions as to search and seizure.

I make no criticism of this action on the part of the Legislature, but I am entirely unwilling to admit the contention that there was put upon the State either by the Eighteenth Amendment, the Volstead Act, or the United States Supreme Court decision, any obligation to pass any law adopting into the State law the provisions of the Volstead Act. Learned jurists who have given the best years of their lives to judicial service in this State have so advised me. Leading members of the bar of other states concur fully in this belief. Advising the electorate of the State of Massachusetts, every living former Attorney-General of that Commonwealth as well as many of her distinguished lawyers said:

"The Eighteenth Amendment gives Congress and to each of the forty-eight states the concurrent right to enforce the amendment. This is not a command but an option. It does not create a duty."

I have read thousands of letters and I have listened to the fullest discussion and no one has pointed out to me any provision of the constitution or of the statutes or any decision of the United States Supreme Court which imposes upon our State any constitutional duty to maintain a state enforcement act, and I am satisfied that as a matter of law this contention does not admit of doubt.

I am dealing with three classes of people, the radical dries, the radical wets and those who hold moderate views on this subject. The dries seem to see a moral duty on the part of the State to maintain an enforcement act. They are undoubtedly led to this conclusion by their own frame of mind because they do not suggest that the State maintain an act merely enforcing

the Eighteenth Amendment in accordance with the wishes of the majority of the people of the State, but they insist that there be a state enforcement act exactly paralleling the Volstead Act.

Congress made its determination as to what constituted an intoxicant. This State decidedly disagreed with that determination. After all is said and done, whatever may be the interpretation of the Eighteenth Amendment by any class or group of our citizens, under our form of government we look to the courts for the interpretation which we must all follow. While legislative bodies make the laws, the courts must construe them and we are bound by the construction put upon them by our judicial tribunals. The United States Supreme Court said:

“The power confided to Congress by the Eighteenth Amendment is in no wise dependent upon or affected by action or inaction on the part of the several states or any of them.”

If the right of Congress is paramount, its responsibility must be paramount.

Expanding this idea the statement signed by the Attorneys General of Massachusetts adds:

“Nullification, as defined by the highest authority is the action of a state intended to abrogate within its limits the operation of a federal law.”

This no one proposes to do. The mere omission to maintain a state statute in no way abrogates a Federal statute. It seems to me that this effectually disposes of the loose talk about the nullification of the constitution by refusal on the part of any of the states to enact separate statutes.

Inasmuch as it would be physically impossible for me to make answer to all of the communications received by me from citizens of our own State as well as from other states who have sought to guide and advise me in this matter, I would like as a mark of my appreciation of their efforts to deal here with the considerations urged by them as well as with considerations urged in the oral arguments made at the hearing.

Let me first say what the repeal of the Mullan-Gage Law will not do.

Its repeal will not make legal a single act which was illegal during the period of the existence of the statute.

Many communications I have received and arguments that have been made to me, indicate a belief that its repeal will make possible the manufacture, sale and distribution of light wines and beer. So far as that is concerned it will still be under the control it is to-day, subject to the provisions of the Volstead Act. Repeal of the Mullan-Gage Law will not bring back light wines and beer.

The Supreme Court of the United States said:

“The constitution, laws and treaties of the United States are as much the part of the law of every state as its own local laws and constitution.”

That means that after repeal there will still rest upon the peace officers of this State the sacred responsibility of sustaining the Volstead Act with as much force and as much vigor as they would enforce any state law or local ordinance, and I shall expect the discharge of that duty in the fullest measure by every peace officer in the State. The only difference after repeal is that to-day the police officer may take the offender for prosecution to the State court, to the Federal court or to both. After the repeal of the Mullan-Gage Law the prosecution must be where it belongs — in the Federal court. In law and in fact there is no more lawlessness in repealing the Mullan-Gage Law than there is in the failure of the State to pass statutes making it a State crime to violate any other Federal penal statute.

Let it be understood at once and for all that this repeal does not in the slightest degree lessen the obligation of peace officers of the State to enforce in its strictest letter the Volstead Act and warning to that effect is herein contained as coming from the Chief Executive of the State of New York.

At this point, with all the earnestness that I am able to bring to my command, let me assure the thousands of people who wrote to me on this subject, and the citizens of the State generally, that the repeal of the Mullan-Gage Law will not and cannot by any possible stretch of the imagination bring back into existence the saloon which is and ought to be a defunct institution in this country, and any attempt at its reestablishment by a misconstruction of the Executive attitude on this bill will be forcefully and vigorously suppressed.

Let me now say what the repeal of the Mullan-Gage Law will do.

Its repeal will do away entirely with the possibility of double jeopardy for violation of the laws enforcing the Eighteenth Amendment. By that we mean that no citizen shall be twice punished for the one offense. Under the United States Supreme Court decision in the Lanza Case, a citizen is to-day subjected to double trial and even to double punishment for a single offense because such alleged offense is a violation of both the state and the Federal law. This is an unwarranted and indefensible exception to the fundamental constitutional guarantee contained in both the Federal and state constitutions that no person shall be twice tried or punished for the same offense.

The repeal of the Mullan-Gage Law will put the State in harmony with the recent decision by United States District Judge Knox declaring a portion of the Volstead Act to be in contravention of the Eighteenth Amendment. By that decision the United States District Court in New York has laid down the principle that the prohibition contained in the Eighteenth Amendment does not apply to the necessary and proper prescription of alcoholic liquors for medicinal purposes and that the Federal government gains no power under the Volstead Act except to prohibit traffic in alcoholic liquors for beverage purposes as distinct from medicinal purposes. Provisions of the Mullan-Gage Law if left in force would still maintain in the law of this State the limitations contained in the Volstead Act which the great body of the medical profession in our State seems practically unanimous in denouncing as an interference with the necessary requirements of their profession.

The repeal of the Mullan-Gage Law will mean that violations of the Volstead Act will hereafter be prosecuted in the Federal courts. This to my mind seems to be desirable as it will fix in the minds of offenders the thought that they have violated a Federal statute intended to effectuate an amendment to the constitution of the United States, rather than have them harbor the thought that they are simply standing against what a great many of them may be led to believe is merely a local regulation.

The burden imposed on the State to prosecute traffickers in

liquor as violators of a state statute is a wasteful and futile one because of the refusal of grand juries to indict and of petit juries to convict.

Let us apply to this question the principles of good business, good judgment and common sense. I promised myself that I would not consider this subject solely from the standpoint of constitutional law or political expediency and I have labored to make my study of it practical. While there will be no let-up on the part of the police officials of this State in the enforcement of the Volstead Act, I cannot help thinking and saying, as I owe it to the people of this State to say, that the real solution of proper enforcement rests primarily with the Federal government.

The practical side of this question to my way of thinking indicates that little if any of the liquor consumed in this State is manufactured here. It is imported from foreign countries. The Federal government is the one agency that can attack the base of supply. It is infinitely easier to stop the smuggling in of five hundred cases of liquor before bulk is broken than to trace the same five hundred after they find their way into different parts of the State in small quantities.

The division of responsibility for primary execution of the enforcement law may in part explain the failure of Federal enforcement officials to stop the smuggling of liquor in bulk into this State, which has certainly raised a serious question as to the efficiency and in some cases the earnestness of Federal enforcement agencies. Whenever the ultimate responsibility is divided there is a tendency for each authority or agency upon whom it rests to rely upon the other. The State in the nature of things cannot guard her frontiers of land and water against this smuggling as well as the Federal authorities should be able to do it. If we place squarely upon the Federal authorities the primary duty and obligation to put an end to the enormous smuggling of liquor from foreign countries into this State it will be where it rightfully belongs and we will have taken a long step forward to the reestablishment of respect for and enforcement of law.

Over and beyond all this, I believe the approval of this repeal will reawaken in the public mind the fundamental conception

of the law of the land and reestablish beyond doubt what constitutes the essentials of the relation between the Federal government and the sovereign states of the union.

Recently the President of the United States in reply to a letter from a citizen of this State who had suggested to the President that the repeal of this act bore the color of treason, said without disclaiming this particular suggestion, "With much that you say I am fully in accord."

I yield to no man in this country when it comes to respect for the utterances of the Chief Executive of the United States, but it is impossible for me to be unmindful of the fact that I am the Chief Executive of a sovereign state and I am entirely in accord with a statement put forth in the course of this discussion and signed by former Judges Willard Bartlett, Almet F. Jenks, E. Henry Lacombe and Mr. Austen G. Fox, which dealt with the letter of the President and which in part said:

"It would be a calamity to permit such fundamental misconceptions of the relations between the states and the federal government as may seem to be suggested by portions of the President's letter to pass unchallenged."

The children in our public schools have been taught to believe that our government rests upon the foundation that the states are sovereign with respect to all powers not expressly delegated by them to the Federal government, and that while the laws of Congress are paramount within the delegated power, the states are sovereign within the reserved power. History gives us the reason for this. In the formation of the union our forefathers in their wisdom understood that with our vast area and its heterogeneous population, with their varying local interests, what may be sound local policy in one community may be entirely inappropriate to the needs of another. To any student of our government I think it must be apparent that one of the great elements in the strength of our democracy is the supremacy of the Federal government in its own sphere and the sovereignty of the several states in theirs.

We have been taught that eternal vigilance is the price of liberty and how far we may wander from the thoughts and ideals of the founders of our government is well illustrated by

the suggestion in the President's letter that because the states have a larger police force than the Federal government has, and because the Federal government has at this time what the President describes as an inadequate machinery for the enforcement of the Volstead Act, therefore the states are obligated severally to enact statutes duplicating the Volstead Act. I am unable to understand from what source he believes this obligation to be derived and he does not disclose it. The President might with equal force suggest that at any time Congress in its wisdom saw fit to withhold adequate appropriation for the enforcement of any Federal law, that there immediately devolved a duty upon each state to enact that Federal law into a state statute and make every offense against Federal law not enforced, a duty upon the states to punish it as a state offense and at state expense.

I am not here discussing the wisdom or unwisdom of prohibition. The question is rather whether all vestige of the rights of the states guaranteed by the Federal constitution is to be driven from our political theory of government. With all respect for the President of the United States I must here reassert this principle against his challenge and as the Chief Executive of the greatest sovereignty in the union, it is my duty to declare and maintain that sovereignty in exact accordance with the guarantees of the constitution. This does not mean that a state has any right or power to enact any law that in any way infringes upon a constitutional act of Congress, but it does mean that the Federal government has no right to impose upon the state any obligation to pass any statute affirmatively embodying any Federal statute.

The whole treatment of this question, and I speak only from history, has been marked by hypocrisy. There should be no such thing as carrying water on both shoulders. What the country is looking for to-day if I read the signs of the times aright, is a constructive, forward-looking suggestion that disregards entirely the fanatical wets and the fanatical dries.

I yield to no man in my reverence and respect for the Constitution of the United States and I advocate nothing which will infringe upon the provisions of the Eighteenth Amendment. It is nevertheless a fact that the definition of an intoxicating

beverage contained in the Volstead Act is not an honest or a common sense one. It is impossible to divorce from the public mind the impression that the definition of an intoxicating beverage as containing not more than one-half of one per cent of alcohol was written by the fanatical drys in defiance of the general experience of mankind and of actual fact. It seems to me that common sense backed up by good medical opinion can find a more scientific definition of what constitutes an intoxicating beverage. Such a definition should be adopted by Congress as a proper and reasonable amendment of the Volstead Act and a maximum alcoholic content should be prescribed by Congress which would limit all states to the traffic in liquors which are in fact non-intoxicating within the meaning of the Eighteenth Amendment. Subject to that limitation each state should thereafter be left free to determine for itself what should constitute an intoxicating beverage. States which then wished to limit traffic to beverages containing not more than one-half of one per cent of alcohol would be free to do so and those which desired to extend the traffic to the maximum limitation allowed by Federal statute would be equally free to do so. There could be, within the limitations of the maximum, many differences of degree, extending even to the complete prohibition by some states of traffic in liquor containing any alcohol whatever.

This would be in keeping with the freedom and liberty of different states with differing local conditions to legislate for themselves, subject always to the maximum limitation enacted by Congress which would be paramount.

I offer this as a constructive suggestion which will relieve the country from the stress of this perplexing question which affords such a widespread difference of opinion and thus give our people a chance to turn their minds to other and greater questions that are pressing for solution.

Much has been said in the public prints with respect to the effect my action on this bill may have upon my own political future. I have no political future that I am willing to attain by the sacrifice of any principle or any conviction of what in my mind is for the welfare and the benefit of this State and Nation.

Because I believe there is nothing to be gained either for the Nation or for the State by the retention of this statute, while on the other hand I believe that its repeal is of distinct benefit in the preservation of the rights of our people, because I believe that the repeal of this statute in no way nullifies the enforcement of the Volstead Act, because I believe that the fastening of the primary responsibility for prosecution for violations of the laws enforcing the Eighteenth Amendment should be upon the Federal authorities, and because I believe finally and most of all that the preservation of American democracy requires the maintenance of that balance between State and Nation which is guaranteed by the Constitution of the United States and that the reassertion of that principle is to-day of vital consequence to the preservation of the democratic form of government guaranteed to us by the constitution and being mindful of the responsibility placed on me by the electorate of this State, grateful for their overwhelming vote of confidence, devoted as I am to the welfare of the country, and to the happiness and the prosperity of the State, I have after careful thought arrived at the conclusion that the bill before me should receive Executive approval, and I therefore approve the bill.

(Signed) ALFRED E. SMITH.

To Amend Chapter 663 of the Laws of 1922, Relative to Defenses in Actions Based on Unjust Agreements for Rent, Extending Application of Law to Tenancies and Leases Executed After September 27, 1920

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, June 1, 1923.

Memorandum filed with Assembly Bill, Introductory Number 189, Printed Number 1914, entitled:

“AN ACT to amend chapter six hundred and sixty-three of the laws of nineteen hundred and twenty-two, entitled ‘An act extending the time of application of certain acts of the years nineteen hundred and twenty and nineteen hundred and twenty-one, relating to defenses in actions based upon unjust,

unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in certain cities, and to summary proceedings to recover the possession of real property in certain cities,' so as to extend the application of the said acts to tenancies and leases entered into or executed after the twenty-seventh day of September, nineteen hundred and twenty."

APPROVED.

In order to dispose of any conflict with regard to the interpretation of the so-called Emergency Rent Laws and to carry out what was their evident intent, to protect tenancies occurring at any time during the period that these Emergency Rent Laws remain upon the statute books, it is necessary to amend these laws so that there can be no further doubt as to their meaning. Recent investigations show that the housing emergency still affects rentals and that new tenants are especially subject to unreasonable rent increases. An examination of the rentals of a group of tenements covering a period of the last four years showed clearly that while continuing tenancies were subject to increases, wherever changes in tenancies occurred these increases, particularly during the last twelve months, were especially marked and ranged as high as one hundred per cent.

I wish to record myself as consistently in favor of the protection which these laws have given and therefore approve this bill.

(Signed) ALFRED E. SMITH.

To Amend the Banking Law, Prohibiting Certain Encroachments by Individuals as Trustees or Otherwise on Certain Powers of Private Bankers, Savings Banks, or Savings and Loan Associations

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, June 1, 1923.

Memorandum filed with Senate Bill, Introductory Number 1126, Printed Number 1226, entitled:

"AN ACT to amend the banking law, in relation to encroachments by individuals as trustees or otherwise upon powers of private bankers, savings banks or savings and loan associations."

APPROVED.

This bill prohibits any individual, either for himself or as trustee, or any partnership or unincorporated association from engaging in the business of receiving deposits or conducting a business similar to that of a savings and loan association or a savings bank, unless authorized by the Superintendent of Banks.

This bill will have the effect of barring from this State the operations of the so-called "Massachusetts trusts," which are engaged in the business of taking money in installments on so-called loan contracts.

I am informed that the operations of these "trusts" have been the subject of criticism throughout the country and that they have already been barred from operating in some twenty or more states.

The scheme of our banking law provides for the authorization of private bankers, savings and loan associations, investment companies, savings banks, personal loan companies as well as commercial banks and trust companies, and any individuals desiring to conduct any one of these businesses need only comply with the provisions of the banking law, which have been thoroughly tested and found to render service and afford ample protection to depositors, shareholders and others whose business is entrusted to them.

It has always been recognized that it is within the police power of the state for the legislature to prescribe the manner in which a business of this character may be conducted.

This bill has the support of the various banking associations, the Superintendent of Banks and several district attorneys who have received complaints from those who have done business with these "trusts."

(Signed) ALFRED E. SMITH.

To Provide for Refunding, or to Meet Deficiencies on Account of Taxes Illegally Imposed Upon Certain Shares of National and State Banks

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, June 1, 1923.

Memorandum filed with Senate Bill, Introductory Number 1653, Printed Number 1896, entitled:

“AN ACT to provide for refunding, or to meet deficiencies on account of, taxes illegally imposed in the years nineteen hundred and twenty, nineteen hundred and twenty-one and nineteen hundred and twenty-two, upon shares of national and state banks.”

APPROVED.

This bill provides that municipalities in the State that are required to refund taxes illegally levied upon the shares of national and state banks may issue obligations of such municipalities for the purpose of caring for such refunds.

I therefore approve this bill.

(Signed) ALFRED E. SMITH.

To Amend the Tax Law in Relation to the Taxation of Bank Shares and Moneyed Capital Coming into Competition With the Business of National Banks

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, June 1, 1923.

Memorandum filed with Senate Bill, Introductory Number 1499, Printed Number 2331, entitled:

“AN ACT to amend the tax law, in relation to the taxation of bank shares and moneyed capital coming into competition with the business of national banks.”

APPROVED.

This bill taxes bank shares and other moneyed capital coming in competition with national banks one per centum on what

is generally spoken of as *ad valorem* basis. Shares of banks, banking associations and trust companies have been taxed on this basis and at this rate for a period of over twenty years.

I am informed that, by reason of a recent decision of the United States Supreme Court, it was necessary to exempt from the provisions of this tax the income received on dividends on shares of banks and banking associations, so that to this extent the bill will result in a reduction in the tax heretofore imposed. The income received on dividends on shares of trust companies has also been exempted from the provisions of this tax.

Representatives of private bankers, investment bankers and holders of other moneyed capital have appeared in opposition to this bill. I am informed by counsel and representatives of the different municipalities affected that, because of the recent decision of the United States Supreme Court and the enactment of a Federal statute, it was necessary to so broaden the scope of this bill as to include all other moneyed capital coming in competition with national banks, for otherwise the bill would be held to be invalid in that it discriminates against national banks.

I am also informed that the language defining the scope of the bill is taken in its entirety from the decisions of the Courts and the Federal statutes above referred to.

This bill is the only bill before me under which the municipalities may levy a tax on bank shares and other moneyed capital and, if it were not signed, it would mean that the municipalities would be without adequate means of raising this very important part of their revenue.

I therefore approve this bill.

(Signed) ALFRED E. SMITH.

VI
EMERGENCY MESSAGES

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EMERGENCY MESSAGES

Section 15 of Article III of the Constitution provides that no bill shall be passed or become a law unless it shall have been printed and upon the desks of the members in its final form at least three calendar days prior to its final passage, unless the Governor shall have certified to the necessity of its immediate passage. In conformity with this provision Governor Smith certified to the necessity of the immediate passage of the bills enumerated below:

February 19. Senate Bill, Int. No. 727, Printed No. 769, entitled "An act to supplement the Greater New York Charter, in relation to the levying of taxes, adjustment of the budget and the revenues of the general funds of said city for the year nineteen hundred and twenty-three." *Approved as Chapter 3.*

March 7. Senate Bill, Int. No. 1174, Printed No. 1274, entitled "An act making an appropriation to defray the expenses of the State Department of Labor for maintenance, operation and personal service until July first, nineteen hundred and twenty-three." *Approved as Chapter 55.*

May 2. Senate Bill Int. No. 496, Printed No. 2361, entitled "An act to amend the prison law, in relation to the compensation of guards in state prisons and reformatories, and making an appropriation therefor," as amended. *Approved as Chapter 584.*

May 2. Assembly Bill, Int. No. 1623, Printed No. 2142, entitled "An act to amend the general business law, in relation to establishing in the office of the attorney-general a bureau of trade and commerce for the investigation and prosecution of illegal business practices, and making an appropriation therefor," as amended. *Not handed down for concurrence in Senate amendment.*

May 2. Senate Bill, Int. No. 1947, Printed No. 2365, entitled "An act making an emergency appropriation for the repair of highways maintained by the State." *Approved as Chapter 338.*

May 2. Senate Bill, Int. No. 1329, Printed No. 1483, entitled "An act making an appropriation to pay the State's share of the construction of the county highway located in the counties of Kings, Queens, and Nassau, authorized by chapter six hundred and sixty of the laws of nineteen hundred and twenty-one," as amended. *Approved as Chapter 844.*

May 2. Senate Bill, Int. No. 523, Printed No. 1285, entitled "An act to amend the labor law, so as to protect the health and welfare of women and minor workers by establishing a minimum wage board and providing for the determination of living wages for women and minors," as amended. *This bill passed the Senate and was defeated in the Assembly.*

May 3. Senate Bill, Int. No. 1124, Printed No. 2157, entitled "An act making an appropriation for the construction of an improved highway in the State Fair Grounds," as amended. *Approved as Chapter 335.*

May 3. Assembly Bill, Int. No. 1468, Printed No. 1579, entitled "An act making an appropriation for a dairy exhibit at the National Dairy Show to be held on the State Fair Grounds in the City of Syracuse, County of Onondaga, State of New York, in the year nineteen hundred and twenty-three," as amended. *Approved as Chapter 587.*

May 3. Senate Bill, Int. No. 1066, Printed No. 2164, entitled "An act to amend the conservation law, in relation to the establishment of a State council of parks and defining its powers and duties," as amended. *This bill passed the Senate — Motion to discharge committee lost in the Assembly.*

May 3. Senate Bill, Int. No. 1857, Printed No. 2402, entitled "An act making an appropriation for the development, improvement and extension of certain parks within the State and for the acquisition of lands therefor," as amended. *Approved as Chapter 693.*

May 3. Senate Bill, Int. No. 1147, Printed No. 2401, entitled "An act to amend the State finance law by establishing

a conservation fund and regulating the disposition thereof," as amended. *This bill passed and was vetoed by the Governor.*

May 3. Senate Bill, Int. No. 1724, Printed No. 2334, entitled "An act to amend the stock corporations law, generally," as amended. *Approved as Chapter 787.*

May 3. Concurrent resolution of the Senate and Assembly, Senate Int. No. 52, Printed No. 52. "Proposing an amendment to section one of article four of the constitution, in relation to the term of office of the Governor." *This resolution passed in Senate and was reported adversely in Assembly.*

May 3. Concurrent resolution of the Senate and Assembly, Senate Int. No. 51, Printed No. 573, "Proposing an amendment to sections twenty-one and twenty-two of article three and section nine of article four of the constitution, in relation to the establishment of a budget system." *This resolution was passed in Senate and was reported adversely in the Assembly.*

May 3. Senate Bill, Int. No. 1275, Printed No. 1414, entitled "An act to amend the civil practice act, in relation to the suspension of statutes of limitations to begin action for negligence arising out of maritime torts, and to file claim for compensation in cases where the injured employee worked under a maritime contract," as amended. *Approved as Chapter 392.*

May 3. Senate Bill, Int. No. 1971, Printed No. 2407, entitled "An act making appropriations for the support of the government in addition to those provided by chapter 225 of the laws of 1923, and including provisions relating to certain appropriations made by such chapter. *Approved as Chapter 450.*

May 3. Assembly Bill, Int. No. 38, Printed No. 2426, entitled "An act to amend chapter one thousand and six of the laws of eighteen hundred and ninety-five, entitled 'An act to provide for discontinuing and closing streets, avenues, roads, highways, alleys, lanes and thoroughfares in cities of more than one million two hundred and fifty thousand inhabitants,'

in relation to providing for the acquisition by any such city of the fee title to lands within closed streets, and to providing that the compensation to be made for damages caused by any such discontinuance and closing and by the acquisition by such city of the fee title to lands within closed streets, shall be ascertained and determined by the Supreme Court without a jury." *Approved as Chapter 752.*

May 3. Senate Bill, Int. No. 1118, Printed No. 1218, entitled "An act to amend the Greater New York Charter, in relation to the issue of bonds," as amended. *Approved as Chapter 754.*

May 3. Assembly Bill Int. No. 113, Printed No. 2265, entitled "An act to amend the workmen's compensation law, in relation to compensation for certain permanent partial disability," as amended. *Failed of passage.*

May 4. Senate Bill, Int. No. 546, Printed No. 562, entitled "An act to amend the labor law in relation to definition of factory, factory building and mercantile establishment, and the general powers and duties of commissioner," as amended. *Passed in Senate—not advanced in Assembly.*

May 4. Senate Bill, Int. No. 361, Printed No. 2156, entitled "An act to amend the children's court act, generally," as amended. *This bill passed the Senate and was defeated in the Assembly.*

May 4. Senate Bill Int. No. 1703, Printed No. 2400, entitled "An act making an appropriation for an exhibit at the horticultural exposition of the eastern states apple and fruit exhibition, New York City." *Approved as Chapter 580.*

May 4. Senate Bill, Int. No. 1965, Printed No. 2389, entitled "An act to amend the labor law, in relation to the definition of places of public assembly, and the enforcement of the provisions of article seventeen of chapter four hundred and five of the laws of nineteen hundred and twenty-two," as amended. *Approved as Chapter 745.*

VII
APPOINTMENTS

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VII

APPOINTMENTS

APPOINTMENTS — GOVERNOR DIRECT

Personal Staff

Secretary to the Governor

- Jan. 1. George R. Van Namee, of Watertown, to succeed George Featherstone, term expired.

Counsel to the Governor

- Jan. 1. James A. Parsons, of Hornell, to succeed C. Tracy Stagg, resigned.
Oct. 8. Terence Farley, of New York City, to succeed James A. Parsons, resigned.

Assistant Secretary to the Governor

- Jan. 1. George B. Graves, of Albany, to succeed William G. McCarthy, resigned.

Military Secretary to the Governor

- Jan. 1. David B. Lawyer, of Albany, to succeed William C. Coogan, term expired.

Executive Officer

- Jan. 1. Robert M. Fitzmaurice, of New York City.

The Adjutant General

- Jan. 1. Brigadier General Charles White Berry, of Brooklyn, to succeed J. Leslie Kincaid, term expired.
Nov. 28. Brigadier General Edward J. Westcott, of Albany, to succeed Charles White Berry, resigned.

NOTE—General Westcott acting The Adjutant General from May 24th.

Military Staff

- Jan. 1. Rear Admiral Louis M. Josephthal, Naval Militia.
 Colonel John J. Byrne, Coast Artillery.
 Colonel Charles E. Walsh, Infantry.
 Colonel Rodman Wanamaker, Infantry.
 Colonel John S. Thompson, Infantry.
 Colonel James R. Howlett, Cavalry.
 Lieutenant Colonel William J. Costigan, Infantry.
 Lieutenant Commander Robert C. Lee, Naval Militia.
 Major William Ottman, Coast Artillery.
 Major William Schroeder, Medical Corps.
 Lieutenant Commander Richard Condon, Naval Militia.
 Major John H. O'Connor, Medical Corps.
 Major Frank A. Conklin, Adjutant General's Department.
 Captain Ogden J. Ross, Infantry.
 Captain Patrick J. Walsh, Engineer.
 Captain George C. Lieber, Jr., Field Artillery.
 1st Lieutenant Vincent A. O'Neil, Field Artillery.
 1st Lieutenant Paul Lorch, Infantry.

Miscellaneous Departments, Boards and Commissions*State Fuel Administrator*

- Jan. 9. General George W. Goethals, of New York City.

Attorney of the St. Regis Tribe of Indians

- Mar. 27 Maurice W. Lantry, of Bombay, reappointed.

Trustees of the Supreme Court Library at Poughkeepsie

- Mar. 27. Raymond E. Aldrich, of Poughkeepsie, to succeed William Morgan Lee, deceased.

- Dec. 3. Samuel K. Phillips, of Matteawan, reappointed.
 Frederic Barnard, of Poughkeepsie, reappointed.

Member of the State Athletic Commission

- Apr. 10. George E. Brower, of Brooklyn, to succeed George K. Morris, term expired.

Members of the License Committee of the State Athletic Commission

Apr. 10. William J. McCormick, of New York City, to succeed William Muldoon.

John J. Phelan, of New York City, to succeed George K. Morris.

D. Walker Wear, of Binghamton, to succeed Frank Dwyer.

Member of State Commission on Pensions

Apr. 30. William M. Thomas, of Albany, reappointed.

Members of Advisory Committee of the State Insurance Fund

Apr. 30. Paul E. Fitzpatrick, of Buffalo, to succeed W. H. Dupka, resigned.

July 17. Saul Singer, of New York City, reappointed.

John E. Connelly, of New York City, to succeed Philip T. Dodge, term expired.

Salt Water Bays Commission

(Pursuant to the provisions of Chapter 686 of the Laws of 1923)

June 9. Lewis E. Pierson, of Westhampton Beach.

Clifford L. Jackson, of Hampton Bays.

Gilbert H. White, of Southampton.

Members of the Home Rule Commission

(Pursuant to the provisions of Chapter 583 of the Laws of 1923)

June 9. Terence Farley, of New York City.

Clarence M. Lewis, of New York City.

Frank X. Sullivan, of New York City.

James J. Barrett, of Syracuse.

Louis E. Desbecker, of Buffalo.

Member of the Public Health Council

July 12. Henry Neely Ogden, of New York City, reappointed.

NOTE—The Governor on July 13th designated Simon Flexner, M. D., of New York City, as Chairman.

Member of the State Probation Commission

July 12. Mary E. Paddon, of New York City, reappointed.

Members of the State Commission for the Blind

July 13. Charles J. Himmelsbach, of Buffalo, reappointed.

Dec. 18. Kate Ellis Truslow, of Geneva, to succeed C. Schuyler Davis, term expired.

Trustees of the State Institute of Applied Agriculture on Long Island

Aug. 22. Hilda Ward, of Roslyn, reappointed.

Edmund R. Lupton, of Mattituck, reappointed.

Delaware River Water Resource Commission

(Pursuant to the provisions of Chapter 56 of the laws of 1923)

Oct. 4. Rudolph Reimer, Jr., of Brooklyn.

Jefferson De Mont Thompson, of New York City.

George McDonald, of New York City.

Commission to Examine Military Laws, Organizations and Regulations

(Pursuant to the provisions of Chapter 586 of the laws of 1923)

Nov. 28. Edward J. Westcott, of Albany.

George R. Dyer, of New York City.

Edgar S. Jennings, of New York City.

Members of Commission to Investigate Defects in the Law and its Administration

(Pursuant to the provisions of Chapter 575 of the laws of 1923)

Nov. 28. Frank H. Hiscock, Chief Judge, Court of Appeals.

Benjamin N. Cardozo, Associate Judge, Court of Appeals.

William J. Kelly, Presiding Justice, Appellate Division, Second Department.

Irving G. Hubbs, Presiding Justice, Appellate Division, Fourth Department.

Thomas C. T. Crain, Court of General Sessions, New York City.

John Godfrey Saxe, New York City.

Lyman A. Spalding, New York City.

Alfred Frankenthaler, New York City.

Milton E. Gibbs, Rochester.

Harvey D. Hinman, Binghamton.

Charles B. Hill, Buffalo.

Anna M. Kross, New York City.

NOTE—The above Committee appointed by the Governor to act in conjunction with two members of the Senate appointed by the President Pro Tempore, two members of the Assembly appointed by the Speaker, and the Attorney-General. John Godfrey Saxe was designated as Chairman.

Trustees of the Supreme Court Library at Elmira

Dec. 3. Lewis E. Mosher, of Elmira, reappointed.

Ross M. Lovell, of Elmira, reappointed.

Trustees of the Supreme Court Library at Troy

Dec. 3. Michael A. Tierney, of Troy, reappointed.

John A. Cipperly, of Troy, reappointed.

William J. Roche, of Troy, reappointed.

Trustees of the Supreme Court Library at White Plains

Dec. 3. Walter G. C. Otto, of New Rochelle, reappointed.

Oscar LeRoy Warren, of White Plains, reappointed.

Commissioner of the Black River Regulating District

Dec. 3. John N. Carlisle, of Watertown, reappointed.

Member of the Board of Embalming Examiners

Dec. 7. Henry Sauerwein, of Buffalo, reappointed.

Member of the New York Monuments Commission

Dec. 7. Charles S. Barker, of Brooklyn, to succeed.

Lewis R. Stegman, deceased.

Members of the Board of Trustees of Schuyler Mansion

Dec. 7. Amelia D. C. Parker, of New York City, to succeed

Henry W. Kent, term expired.

Anna C. Corning, of Albany, to succeed Helen D.

Pratt, term expired.

*Trustees of the New York State School of Agriculture at
Morrisville*

(Additional appointments pursuant to provisions of Chapter
853 of the laws of 1923)

- Dec. 8. Henry D. Case, of Holmesville.
Henry T. Lewis, of Morrisville Station.

Trustees of the Supreme Court Library at Norwich

- Dec. 12. Henry R. Follett, of Norwich, reappointed.
Arthur W. Morse, of New Berlin, reappointed.

*Members of the Board of Governors of the New York State
Nautical School*

- Dec. 14. Edward H. Cole, of New York City, to succeed.
Arthur B. Conner, term expired.
William R. Evans, of Buffalo, reappointed.

Trustees of the State School of Agriculture at Cobleskill

- Dec. 14. Dewitt C. Dow, Jr., of Cobleskill, reappointed.

(Additional appointments pursuant to the provisions of Chap-
ter 853 of the laws of 1923)

Barner Aker, of East Cobleskill.
Peter G. Ten Eyck, of Albany.

Supreme Court Justices

Supreme Court Justice — First Judicial District

- June 9. Joseph M. Proskauer, of New York City, to succeed
Alfred R. Page, resigned.

Supreme Court Justice — Sixth Judicial District

- June 9. Charles A. Hitchcock, of Chittenango, to succeed
Michael H. Kiley, deceased.

Supreme Court Justice — Eighth Judicial District

- Oct. 4. William P. Brennan, of Buffalo, to succeed Louis W.
Marcus, deceased.

County Officials*County Judge — Wyoming County*

- Jan. 2. Michael L. Coleman, of Warsaw, to succeed James E. Norton. Failed to qualify.

Coroners — Genesee County

- Jan. 31. Pliny B. Fiske, of Byron, elected at General Election and who failed to qualify.
Clarence J. Whalen, of Bergen, to succeed Elmer E. Owen, failed to qualify.

County Clerk — Steuben County

- Apr. 6. Frank L. McCabe, of Campbell, to succeed Llewellyn H. Brown, deceased.

Sheriff — Niagara County

- June 9. Benjamin F. Gould, of Cambria, to succeed Alanson C. Bigalow, Deceased.

Sheriff — Chemung County

- July 13. Joseph J. Brickwedde, of Elmira, to succeed F. E. Houts, deceased.

County Treasurer — St. Lawrence County

- Oct. 25. Chapin M. Collins, of Potsdam, to succeed R. Porter Johnson, deceased.

County Judge — Kings County

- Nov. 8. W. Bernard Vause, of Brooklyn, to succeed J. Gratton MacMahon, deceased.

APPOINTMENTS — GOVERNOR AND SENATE**Miscellaneous Departments, Boards and Commissions***State Hospital Commissioner*

- Jan. 3. Harriet May Mills, of Syracuse, to succeed Cyrus E. Jones, deceased. Confirmed January 9.

Additional Judge — Court of Claims

- Jan. 3. Charles Morschauser, of Poughkeepsie, to succeed Jeremiah Wood, term expired. Confirmed January 9.

Superintendent of Public Works

- Jan. 3. Edward S. Walsh, of Brooklyn, to succeed Charles L. Cadle, term expired. Confirmed January 9.

(Pursuant to the provisions of Chapter 867 of the laws of 1923)

- Aug. 30. Frederick Stuart Greene, of Sands Point, to succeed Edward S. Walsh, resigned. Recess appointment requiring confirmation.

Commissioners of the State Tax Commission

- Jan. 3. John F. Gilchrist, of New York City, to succeed Walter H. Knapp, term expired. Confirmed January 9.
Feb. 19. Mark Graves, of Albany, to succeed Walter W. Law, Jr., removed from office. Confirmed February 21.

NOTE—Commissioner Gilchrist designated as President, January 31.

State Industrial Commissioner

- Jan. 15. Bernard L. Shientag, of New York City, to succeed Henry D. Sayer, resigned. Confirmed January 17.

Member of the State Industrial Board

- Jan. 15. Frances Perkins, of New York City, to succeed Rosalie Loew Whitney, term expired. Confirmed January 17.

Civil Service Commissioner

- Jan. 29. Frances Stanton Smith, of Buffalo, reappointed. Confirmed January 29.

Commissioner of Highways

- Feb. 1. Frederick Stuart Greene, of Sands Point, to succeed Herbert S. Sisson, resigned. Confirmed February 7.

NOTE—Department of Highways consolidated as Bureau of Highways in the Department of Public Works, by Chapter 867 of the laws of 1923.

Commissioners of Palisades Interstate Park

- Feb. 1. William H. Porter, of New York City, reappointed. Confirmed February 1.
Frederick C. Sutro, of Boundbrook, N. J., reappointed. Confirmed February 1.

Trustees of Washington's Headquarters

Feb. 12. William F. Cassedy of Newburgh, reappointed.
Confirmed February 12.

William H. Kelly, of Newburgh, reappointed. Con-
firmed February 12.

Apr. 30. Charles F. A. Hanstein, of Newburgh, to succeed
Francis J. Gorman, deceased. Confirmed May 2.

Commissioners of Allegany State Park

Feb. 12. Hamilton Ward, of Buffalo, reappointed. Confirmed
February 12.

(Additional appointments pursuant to the provisions
of Chapter 25 of the laws of 1923.)

Mar. 12. John P. Sullivan, of Buffalo. Confirmed March 14.
John B. McCabe, of Salamanca. Confirmed March
14.

Hell Gate Pilot

Feb. 13. George H. Weaver, of City Island, to succeed James
Gibbons, deceased. Confirmed February 14.

*Trustee of the New York State School of Agriculture at
Morrisville*

Feb. 13. Rev. William Dwyer, of Clinton, to succeed Rt.
Rev. John Grimes, deceased. Confirmed February
13.

The State Architect

Feb. 27. Sullivan W. Jones, of Yonkers, to succeed Lewis F.
Pilcher, term expired. Confirmed March 1.

Member of the State Fair Commission

Mar. 5. Margaret L. Stofer, of Buffalo, to succeed Henry K.
Williams, term expired. Confirmed March 14.

*Trustees of the State College of Forestry at Syracuse
University*

Mar. 12. Celestin C. Burns, of Watertown, reappointed. Con-
firmed March 12.

Louis Marshall, of New York City, reappointed.
Confirmed March 12.

Harold D. Cornwall of Beaver Falls, reappointed.
Confirmed March 12.

Member of the Board of Trustees of Cornell University

Mar. 12. Justin Du Pratt White, of Nyack, reappointed. Confirmed March 12.

Member of the State Commission of Prisons

Mar. 22. Leon C. Weinstock, of New York City, reappointed. Confirmed March 22.

Commissioners of the State Board of Charities

Apr. 5. Ceylon H. Lewis, of Skaneateles, reappointed. Confirmed April 5.

Apr. 30. Caroline O'Day, of Rye, to succeed Dudley B. Lawrence, term about to expire. Confirmed May 1.

Superintendent of Banks

Apr. 26. George V. McLaughlin, of Brooklyn, reappointed. Confirmed April 26.

Agent for the Onondaga Indians residing on the Onondaga Reservation

Apr. 26. Almeron B. Fenner, of South Onondaga, to succeed Evin L. Fellows, term about to expire. Confirmed April 30.

Agent of the Onondaga Indians residing on the Allegany, Cattaraugus, Tuscarora and Tonawanda Reservations

Apr. 26. Emily P. Lincoln, of Iroquois, reappointed. Confirmed April 26.

Dec. 3. I. M. Lincoln, of Gowanda, to succeed Emily P. Lincoln, deceased. Recess appointment requiring confirmation.

Attorney of the Seneca Nation of Indians

Apr. 26. Jesse M. Seymour, of Salamanca, reappointed. Confirmed April 26.

Commissioner of the Watkins Glen Reservation

Apr. 26. William M. Leffingwell, of Watkins, to succeed John E. Frost, 2nd., term about to expire. Confirmed April 30.

Commissioner of the Enfield Falls Reservation

Apr. 26. George A. Blauvelt, of Monsey, to succeed Leon Grosjean, term expired. Confirmed April 26.

Commissioner of the Newtown Battlefield Reservation

May 2. John Brand, of Elmira, reappointed. Confirmed May 2.

Trustees of the New York State School of Agriculture at Delhi

May 2. William H. Maynard, of Hobart, reappointed. Confirmed May 2.

William H. Sheffield, of Hobart, reappointed. Confirmed May 2.

John D. Smith, of Walton, reappointed. Confirmed May 2.

Trustees of the Guy Park House and Grounds

May 2. Patrick J. Fitzgibbons, of Amsterdam, to succeed Francis Morris, term expired. Confirmed May 3.

Members of the Board of Commissioners of the Herkimer Home

May 2. Frank West, of Mohawk, reappointed. Confirmed May 2.

Ella C. Bellinger, of Fort Plain, reappointed. Confirmed May 2.

Dec. 3. Edward H. Teall, of Little Falls, to succeed Frank West, deceased. Recess appointment requiring confirmation.

Motion Picture Commissioner

May 4. Arthur Levy, of New York City, to succeed Joseph Levenson, term expired. Confirmed May 4.

NOTE—Mr. Levy was designated Secretary to the Commission.

Port Wardens of the Port of New York

May 4. Jeremiah O'Connor, of New York City, to succeed Michael H. Blake, deceased. Confirmed May 4.

Charles W. Jannicky, of Brooklyn, to succeed Ambrose O. Neal, deceased. Confirmed May 4.

Member of the Public Service Commission

May 4. James A. Parsons, of Hornell, to succeed Charles G. Blakeslee, term expired. Confirmed May 4.

Commissioner of the Port Authority of the Port of New York

May 4. John F. Galvin, of New York City, to succeed Alfred E. Smith, resigned. Confirmed May 4.

Major General of the National Guard of The State of New York

May 24. Charles White Berry, of Brooklyn, to succeed John F. O'Ryan, relieved from active duty. Recess appointment requiring confirmation.

Commissioner of Health

July 12. Matthias Nicoll, Jr., M. D., of Albany, to succeed Hermann M. Biggs, M. D., deceased. Recess appointment requiring confirmation.

Member of the Commission on Uniform State Laws

July 18. Edward Ward McMahon, of Brooklyn, to succeed Charles T. Terry, deceased. Recess appointment requiring confirmation.

Superintendent of State Police

Dec. 1. John A. Warner, of White Plains, to succeed George Fletcher Chandler, resigned. Recess appointment requiring confirmation.

Supreme Court Justices*Supreme Court Justice — First Judicial District*

Jan. 3. Jeremiah T. Mahoney, of New York City, to succeed Samuel Greenbaum, deceased. Confirmed January 9.

Supreme Court Justice — Eighth Judicial District

Apr. 26. Thomas H. Dowd, of Salamanca, to succeed George W. Cole, deceased. Confirmed April 26.

MANAGERS OF STATE HOSPITALS*Managers of Kings Park State Hospital*

- Feb. 1. Rev. John C. York, of Brooklyn, reappointed. Confirmed February 1.

Evelyn Vause, of Brooklyn, to succeed Beatrice Livingston, heretofore appointed during a recess of the Senate and who failed to qualify. Confirmed February 8.

Manager of Brooklyn State Hospital

- Feb. 12. Grace Wilson Whitehall, of Brooklyn, reappointed. Confirmed February 12.

Managers of Buffalo State Hospital

- Feb. 12. Edward G. Zeller, of Buffalo, to succeed Howard N. Witbeck, term expired. Confirmed February 14.

Alice C. Moore, of Buffalo, to succeed May Perry Cooke, resigned. Confirmed February 14.

Manager of Central Islip State Hospital

- Feb. 12. Rev. William H. Garth, of Islip, reappointed. Confirmed February 12.

Manager of Gowanda State Homeopathic Hospital

- Feb. 12. P. Wyckoff Neefus, M. D., of Rochester, reappointed. Confirmed February 12.

Managers of Hudson River State Hospital

- Feb. 12. Myra H. Avery, of Poughkeepsie, reappointed. Confirmed February 14.

Katherine E. B. McKinney, of Albany, to succeed E. Lyman Brown, deceased. Confirmed February 14.

Manager of Rochester State Hospital

- Feb. 12. Lillie Boller Werner, of Rochester, reappointed. Confirmed February 12.

Manager of St. Lawrence State Hospital

- Feb. 12. Robert J. Donahue, of Ogdensburg, to succeed Mary P. Cooper, term expired. Confirmed February 14.

Managers of Utica State Hospital

- Feb. 12. Frederick T. Proctor, of Utica, reappointed. Confirmed February 12.
- Feb. 19. William M. Martin, of Utica, to succeed George E. Dunham, deceased. Confirmed February 21.

Manager of Willard State Hospital

- Feb. 12. Charles R. Phillips, M. D., of Hornell, reappointed. Confirmed February 12.

Manager of Manhattan State Hospital

- Feb. 13. Gustav Scholer, M. D., of New York City, reappointed. Confirmed February 13.

Manager of Middletown State Hospital

- Feb. 13. Florence L. Ketchum, of Warwick, to succeed Lena Hinchman Townsend, term expired. Confirmed February 14

Managers of Binghamton State Hospital

- Feb. 13. Merritt J. Corbett, of Binghamton, reappointed. Confirmed February 14.
- Harry A. Yetter, of Binghamton, to succeed Henry A. Stevens, deceased. Confirmed February 14.
- Dec. 6. Mary A. Johnson, of Endicott, to succeed Kate M. Ely, resigned. Recess appointment requiring confirmation.

Managers and Trustees of Charitable Institutions*Manager of the New York State Hospital for the Care of Crippled and Deformed Children*

- Feb. 12. Florence D. Wallis, of Bronxville, reappointed. Confirmed February 12.

Trustees of New York State Hospital for the Treatment of Incipient Pulmonary Tuberculosis

- Feb. 12. Frank Erdwurm, M. D., of New York City, reappointed. Confirmed February 12.

Mar. 12. Arthur C. Schaefer, M. D., of Buffalo, to succeed John Hurley, Ph. G., deceased. Confirmed March 15.

May 2. William L. Munson, M. D., of Granville, to succeed Bessie Boasberg, resigned. Confirmed May 3.

Manager of New York State Reformatory for Women

Feb. 12. George B. Robinson, of Bedford Hills, reappointed. Confirmed February 12.

Managers Thomas Indian School

Feb. 12. William Hatch, of Akron, reappointed. Confirmed February 12.

Dec. 27. John L. Snyder, of Irving, to succeed Water S. Kennedy, deceased. Recess appointment requiring confirmation.

Manager Woman's Relief Corps Home

Feb. 12. Ella B. Scott, of New York City, reappointed. Confirmed February 12.

Managers of Craig Colony

Feb. 12. J. Francis Ward, M. D., of Brooklyn, to succeed J. Ramsay Hunt, M. D., term expired. Confirmed February 14.

James O. Hackenberg, of Buffalo, to succeed Daniel B. Murphy, deceased. Confirmed February 14.

John S. McCormick, M. D., of Albany, to succeed Louisa Lane Van Rensselaer, resigned. Confirmed February 14.

Dec. 15. Daniel C. Daley, of Buffalo, to succeed James O. Hackenberg, resigned. Recess appointment requiring confirmation.

Barney S. Beuerlein, of Mt. Morris, to succeed John S. McCormick, resigned. Recess appointment requiring confirmation.

Trustee of the New York State School for the Blind

Feb. 12. Hannah M. Humphrey, of Warsaw, reappointed. Confirmed February 12.

Member of Board of Managers of Letchworth Village

Feb. 12. Franklin B. Kirkbride, of New York City, reappointed. Confirmed February 12.

Managers of State Agricultural and Industrial School at Industry

Feb. 13. Anna Brewster Wells, of Rochester, to succeed William H. Chamberlain, term expired. Confirmed February 14.

Joseph L. Quinn, of Rush, to succeed Herbert S. Weet, term expired. Confirmed February 14.

Frederick D. Lamb, of Rochester, to succeed Henry D. Shedd, term expired. Confirmed February 14.

Managers of the Syracuse School for Mental Defectives

Feb. 13. Jonas L. Oberdorfer, of Syracuse, reappointed. Confirmed February 13.

Thomas H. Munro, of Camillus, reappointed. Confirmed February 13.

Rt. Rev. Albert J. Hayes, of Syracuse, reappointed. Confirmed February 13.

Dec. 11. Rt. Rev. Daniel J. Curley, of Syracuse, to succeed Rt. Rev. Albert J. Hayes, resigned. Recess appointment requiring confirmation.

Managers of the Rome State School for Mental Defectives

Feb. 12. Eliza Doyle, of Rome, to succeed Cyrus J. Severance, M. D., term expired. Confirmed February 14.

May 2. Dan H. Mellen, M. D., of Rome, to succeed Thomas W. Singleton, deceased. Confirmed May 3.

Manager of the New York State Training School for Girls

Feb. 28. Mary K. Scoville, of Hudson, to succeed Helen Esselestyn, term expired. Confirmed March 1.

Managers Albion State Training School

Mar. 19. Monsignor John L. Reilly, of Schenectady, reappointed. Confirmed March 19.

Mary L. Morgan, of Buffalo, to succeed Arthur I. Eccleston, M. D., resigned. Confirmed March 19.

Apr. 24. John Dugan, M. D., of Albion, to succeed Frederick H. Gordon, term expired. Confirmed April 24.

Fanny Moore Sawyer, of Albion, reappointed. Confirmed April 24.

Trustees of the New York State Soldiers and Sailors' Home

Mar. 20. Aaron F. Williams, of Corning, to succeed George W. Luff, term expired. Confirmed March 21.

Calvin A. Brainard, of Buffalo, to succeed Robert P. Bush, M. D., deceased. Confirmed March 21.

William F. Deegan, of New York City, to succeed William G. Masterman, deceased. Confirmed March 21.

Apr. 2 George A. Walters, of Watkins, to succeed Frank W. Wood, term expired. Confirmed April 5.

Manager of the Newark State School for Mental Defectives

May 2. May Hassett Henry, of Buffalo, to succeed Marian P. Burton, term expired. Confirmed May 3.

COUNTY OFFICIALS

County Judge and Surrogate — Chemung County

Feb. 21. John J. Crowley, of Elmira, to succeed Charles B. Swartwood, deceased. Confirmed Feb. 21.

Special County Judge and Special Surrogate — Chenango County

Mar. 14. Edward H. O'Connor, of Sherburne, to succeed Joel J. Bixby, deceased. Confirmed March 16.

Special County Judge — Orange County

Mar. 20. Henry Hunter, of Cornwall, to succeed Henry B. Fullerton, deceased. Confirmed March 21.

HONORARY APPOINTMENTS BY THE GOVERNOR

United States Good Roads Association

March 19. Delegates to the Eleventh Annual Convention of the United States Good Roads Association to be held in Greenville, South Carolina, April 16-21, 1923.

Harry C. Price, Buffalo.

James Loucheim, Hempstead.

Mrs. Winifred Coughlin, Utica.
Mrs. John Heigel, Schenectady.
Mrs. B. B. Donahue, Lowville.
Mrs. Grace Hocter, Philmont.
George Boyce, Little Valley.
Daniel W. Mulligan, Ogdensburg.
Benedict Brooks, Pearl Creek.
Clayton L. Wheeler, Hancock.
Leander Spicer, Ballston Spa.
Alfred T. Mallery, Corinth.
Burr McDowell, Van Etten.
Pierrepont B. Noyes, Kenwood.
Hubert C. Stratton, Oxford.
Mrs. C. E. Hopkins, Syracuse.
Mrs. Leland N. Vedder, Fultonville.
Mrs. William B. Hoyt, Buffalo.
Perry E. Taylor, Schoharie.
John J. McCabe, Glens Falls.
James Guilfoyle, Rensselaer.
Rudolph E. Slosson, West Chazy.
George W. Percy, Westhampton Beach.
Michael McCabe, Haverstraw.
Mrs. D. J. Grant, Auburn.
William B. Auchenpaugh, Oneonta.
Mrs. Menzo Bulkley, Odessa.
J. P. Casey, Batavia.
George F. Darrow, Ogdensburg.
Albert F. French, Fredonia.
G. G. Heckroth, Delhi.
Benjamin F. Welden, Binghamton.
William Cosgrove, Geneva.
John B. Judson, Jr., Gloversville.
George E. Van Valkenburgh, Catskill.
John R. De Vany, Ellenville.
Samuel Todd, Plattsburgh.
Mrs. Lillian V. Martin, Bristol.
Mrs. William Elliot Griffis, Pulaski.
James Brogan, Dansville.
Richard White, Mt. Morris.
A. C. Bloodgood, Catskill.

Charles J. Rumsey, Ithaca.
Fred Lynn, Penn Yan.
Charles E. Hardies, Amsterdam.
Frederick Stuart Greene, Albany.
William H. Brady, New York City.
Mrs. Edward Standish, New York City.
Mrs. Clarence England, Utica.
Mrs. J. J. Kehoe, Schenectady.
Mrs. Harvey F. Farrington, Lowville.
Mrs. Elizabeth Delaney, Hudson.
Robert McConnell, Machias.
H. Benjamin Chase, Massena.
John B. Sheehe, Arcade.
Robert W. Siver, Sidney.
Frank D. Groat, Ballston Spa.
Mrs. Charles H. Keyes, Saratoga Springs.
James Jenkins, Kingston.
Howard Phelps, Cazenovia.
William H. Sullivan, Norwich.
Mrs. Mabel Ladd, Clay.
Benjamin F. Spraker, Palatine Bridge.
Mrs. George W. Pfohl, Buffalo.
William H. Golding, Cobleskill.
Harry D. Sarver, Glens Falls.
Mrs. Mark N. Brooks, Springville.
Richard Gilmour, Ellenburgh Center.
Jacob S. Dreyer, Port Jefferson.
Charles E. De Baun, Spring Valley.
Mrs. Willard Herrling, Auburn.
James P. Friery, Schenevus.
Mrs. William M. Leffingwell, Watkins.
J. H. Lucid, Batavia.
Mrs. Mabel Evans, Fredonia.
W. S. Boggs, South Kortwright.
Harry Loomis, Victor.
Mrs. E. A. Frye, Gloversville.
M. E. Silberstein, Catskill.
John N. Vanderlyn, New Paltz.
Mrs. Morris Nash, Dannemora.
Marcus M. Marks, New York City.

Mrs. Lulu L. Matteson, Canandaigua.

Mrs. James Upcraft, Oswego.

Mrs. Edwin Corning, Kenwood.

John Curtin, Livonia.

Elmer Webster, Greigsville.

Dale Baldwin, New Baltimore.

William Driscoll, Ithaca.

Henry R. Brown, Bluff Point.

Harry McNeil, Fonda.

Mrs. John Campbell, Herkimer.

A. J. Ruland, Binghamton.

American Academy of Political and Social Science

March 23. Delegates to the Twenty-seventh Annual Meeting of the American Academy of Political and Social Science to be held in Philadelphia, Pa., May 11-12, 1923.

Robert Hudson George, Union University, Schenectady.

Howard McBain, Columbia University, New York City.

Rasmus F. Saby, Cornell University, Ithaca.

National Association of State Libraries

March 26. Delegate to the Twenty-sixth Annual Meeting of the National Association of State Libraries to be held in Hot Springs, Ark., April 23, 1923.

James I. Wyer, Albany.

National Anti-Narcotic Conference

April 4. Delegates to the National Anti-Narcotic Conference to be held in Washington, D. C., May 2-4, 1923.

Dr. Hermann M. Biggs, New York City.

J. A. Chamberlain, New York City.

Stephen P. Anderton, New York City.

Frederick A. Kernochan, New York City.

Dr. Harlow Brooks, New York City.

Dr. Walter Timme, New York City.

James A. Hamilton, Albany.

William McAdoo, New York City.

Carlton Simon, New York City.

Conference on State Parks

April 21. Delegates to the Third National Conference on State Parks to be held in the Turkey Run State Park, Indiana, May 7-9, 1923:

Alexander Macdonald, Albany.
A. T. Fancher, Salamanca.
William A. Welch, New York City.
Henry R. Francis, Syracuse.
Cyrus W. Remington, Salamanca.

National Conference of Social Work

April 25. Delegates to the Fiftieth Anniversary Session of the National Conference of Social Work to be held in Washington, D. C., May 16-23, 1923:

Dr. C. Floyd Haviland, Albany.
John S. Kennedy, New York City.
Edmond J. Butler, New York City.
Frank R. Utter, Albany.
Dr. Sanger Brown, New York City.
William H. Gratwick, Buffalo.
Victor F. Ridder, New York City.
Charles H. Johnson, Albany.
Harriet May Mills, Albany.
Mrs. John Blair, New York City.
Mrs. Willard Parker, New York City.
Benedict Erstein, New York City.
Mrs. Joseph M. Proskauer, New York City.
Mrs. C. S. Thompson, Herkimer.
Sophie Irene Loeb, New York City.
Lillian D. Wald, New York City.
Mrs. Mary K. Simkhovitch, New York City.
Mrs. Charles Dana Gibson, New York City.
Mrs. Julius Frank, Ogdensburg.
Rev. Joseph Scully, Albany.
Rev. J. C. Carr, Buffalo.
Rev. Robert F. Keegan, New York City.
Very Rev. Monsignor Francis J. O'Hara, Brooklyn.
Charles J. Tobin, Albany.

George J. Gillespie, New York City.
Joseph F. Keany, New York City.
Margaret L. O'Brien, Philmont.

Sesqui Centennial Exhibition

May 22. New York State Directress to the Sesqui Centennial Exhibition to be held in Philadelphia in 1926 to commemorate the 150th Anniversary of the American Independence.

Mrs. John Marshall Gallagher, New York City.

International Garden City and Town Planning Federation Conference

June 9. Delegate to the International Garden City and Town Planning Federation Conference to be held in Gothenburg, Sweden, in 1923.

Alexander Bing, New York City.

Conference on Taxation

June 26. Delegates to the Sixteenth Annual Conference on Taxation to be held in White Sulphur Springs, West Virginia, September 24-28, 1923:

Mark Graves, Albany.
William J. Burke, Buffalo.
William P. Powell, New York City.
B. S. Orcutt, New York City.
John F. Gilchrist, New York City.
Charles J. Reuling, Buffalo.
George B. Elwell, Wellsville.
Morris F. Frey, New York City.
H. N. Stein, New York City.
George Phillips, Watertown.
Joseph P. Broderick, Buffalo.
Edward P. Doyle, New York City.
Herman G. Kopald, New York City.
William H. King, New York City.
Frank F. Holmwood, Orchard Park.

American Prison Association.

June 28. Delegates to the Fifty-third Annual Congress of the American Prison Association to be held in Boston, Mass., September 13-19, 1923.

Dr. Frank L. Christian, Elmira.
Dr. Walter N. Thayer, Napanoch.
Dr. Sanger Brown, 2nd, New York City.
Sullivan W. Jones, Albany.
Edmond J. Butler, New York City.
Charles H. Johnson, Albany.
Dr. Hastings H. Hart, New York City.
Bertram DeN. Cruger, New York City.
Frederick A. Wallis, New York City.
Dr. John M. O'Conner, New York City.
Dr. Walter B. James, New York City.
George W. Wickersham, New York City.
B. Ogden Chisolm, New York City.
E. R. Cass, New York City.
Adolph Lewisohn, New York City.
Dr. Katherine B. Davis, New York City.
Miss Maude Miner, New York City.
Mrs. Martha P. Falconer, New York City.
Mrs. Frank L. Christian, Bedford Hills.
William J. Cahill, Albany.
E. J. Parker, New York City.
William Halpin, New York City.
Miss Margaret Duffy, New York City.
Stanley Sheppard, New York City.
Mrs. Maude Ballington Booth, New York City.
Dr. Amos T. Baker, Bedford Hills.
Mrs. Flora P. Daniels, Albion.
Charles F. Rattigan, Albany.
Leon C. Weinstock, New York City.
Mrs. Sarah L. Davenport, Bath.
Mial H. Pierce, Gouverneur.
Mrs. Cecilia D. Patten, Saratoga Springs.
Frank E. Wade, Buffalo.

Walter W. Nicholson, Syracuse.
John F. Tremain, Albany.
John S. Kennedy, New York City.
James L. Long, Albany.
Lewis E. Lawes, Ossining.
Dr. A. O. Squires, Ossining.
Rev. W. E. Cashin, Ossining.
Harry M. Kaiser, Dannemora.
Dr. A. Kosseff, Dannemora.
Rev. A. Harvieux, Dannemora.
Edgar S. Jennings, Auburn.
Dr. F. L. Heacox, Auburn.
Rev. A. Copeland, Auburn.
William Hunt, Comstock.
Dr. H. Heath, Comstock.
Rev. R. Abbott, Comstock.
George W. Benham, Auburn.
Dr. E. E. Larkin, Plattsburg.
Thomas Mott Osborne, Auburn.
Mrs. Helen H. Jenkins, New York City.
Miss Katherine M. Pierce, New York City.
Miss Martha Byrne, New York City.
Dr. George W. Kirchway, New York City.
Mrs. Hobart Porter, New York City.
Harry Honeck, Brooklyn.
Dr. William Lathrop Love, Brooklyn.

INTERNATIONAL FARM CONGRESS

July 11. Delegates to the Seventeenth Annual Session of the International Farm Congress of America to be held in Kansas City, Mo., October 10-12, 1923.

Sherman J. Lowell, of Fredonia.
Albert R. Mann, Ithaca.
Albert Manning, Otisville.
Enos Lee, Yorktown.
F. J. Riley, Sennett.
S. L. Strivings, Castile.

B. W. Miller, Owego.
 C. Fred Boshart, Lowville.
 Charles S. Wilson, Hall.
 Datus Clark, Peru.
 T. E. Cross, Lagrangeville.
 Fred L. Porter, Crown Point.
 H. E. Babcock, Ithaca.
 M. C. Burritt, Ithaca.
 A. L. Brockway, Syracuse.

World's Dairy Congress

July 16. Delegates to the World's Dairy Congress to be held in Washington, D. C., October 2nd, continuing at Philadelphia, Pa., October 4th, and at Syracuse, N. Y., October 5-10, 1923.

Peter G. Ten Eyck, Albany.
 John C. Clarke, Fraser.
 W. A. Stocking, Jr., Ithaca.
 P. D. Fox, New York City.
 Loton Horton, New York City.
 H. M. Cary, Buffalo.
 O. F. Soule, Syracuse.
 E. B. Lewis, New York City.
 F. J. Whitney, New York City.
 I. Elkin Nathans, New York City.
 Albert Manning, Otisville.
 W. S. Rhodes, Little Falls.
 C. Fred Boshart, Lowville.
 Nathan Straus, New York City.
 May B. VanArsdale, New York City.
 Albert R. Mann, Ithaca.
 Sophie Irene Loeb, New York City.
 Mabel H. Kittredge, New York City.
 Daniel P. Witter, Berkshire.
 Mrs. Mary G. Simkhovitch, New York City.
 Morgan B. Garlock, Ithaca.

Aug. 21. Commission to inquire into and propose changes in the Organization of the Municipal Court of the City of New York.

Aaron J. Levy, President-Justice of the Municipal Court, Chairman.

Henry Willard Bean, of New York, Vice Chairman.

Judge John R. Davies, of New York.

Alfred Gregory, of New York.

Alfred D. Lind, of New York.

Ralph K. Jacobs, of Kings.

Bernard S. Deutch, of Bronx.

Harry T. Weeks, of Queens.

L. W. Widdecombe, of Richmond.

National Boll Weevil Menace Convention.

Sept. 21. Delegates to the National Boll Weevil Menace Convention to be held in New Orleans, La., October 25-26, 1923.

Sherman J. Lowell, of Fredonia.

Dr. A. R. Mann, Ithaca.

Dr. R. W. Thatcher, Geneva.

A. L. Brockway, Syracuse.

Albert Manning, Otisville.

Enos Lee, Yorktown.

Berne A. Pyrke, Albany.

American Child Health Association

Oct. 10. Delegates to the First Annual Meeting of the American Child Health Association to be held in Detroit, Michigan October 15-17, 1923.

Sophie Irene Loeb, New York City.

Dr. Franklin W. Barrows, Albany.

Atlantic Deeper Waterways

Oct. 18. Delegates to the Sixteenth Annual Convention of the Atlantic Deeper Waterways Association to be held in Norfolk, Va., November 13-16, 1923.

Robert L. Moran, New York City.
Dr. C. Adelbert Becker, New York City.
William C. Bergen, New York City.
August F. Schwarzler, New York City.
Clement H. Smith, New York City.
George W. Van Slyke, Albany.
Peter G. Ten Eyck, Albany.
James R. Watt, Albany.
Roy S. Smith, Albany.
William E. Woollard, Albany.
George E. Bates, Albany.
Mrs. George E. Bates, Albany.
Charles M. Winchester, Albany.
William B. Elmendorff, Albany.
William E. Fitzsimmons, Albany.
William L. Gillespie, Albany.
Martin H. Glynn, Albany.
Frank M. Williams, Albany.
William S. Hackett, Albany.
James W. Fleming, Troy.
Harvey D. Younghans, Watervliet.
Cornelius F. Burns, Troy.
M. W. Shaughnessy, Troy.
G. Wray Lemon, Troy.
Ben V. Smith, Albany.
Charles Bissikummer, Albany.
Ten Eyck T. Mosher, Albany.
Henry W. Hill, Buffalo.
Murray Hulbert, New York City.
John J. Sullivan, Rensselaer.
Otto Schmidt, Brooklyn.
Charles Campbell, New York City.
George Clinton, Buffalo.

P. W. Cullinan, Oswego.
Edward J. Dunn, Elmira.
Charles E. Reid, New York City.
Charles P. Brate, Albany.
Jefferson DeMont Thompson, New York City.
Charles F. Boine, Buffalo.
Wallace E. Pierce, Plattsburgh.
Robert L. Bacon, Westbury, L. I.
John J. Kindred, Astoria.
William E. Cleary, Washington.
Edward C. O'Brien, Plattsburgh.
Edward R. Carhart, New York City.
Edward F. Murray, New York City.
Olin J. Stephens, New York City.
Adison Wheeler, Brooklyn.
A. J. Elias, Buffalo.
William H. Fitzpatrick, Buffalo.
Harry T. Ramsdell, Buffalo.
Elliott C. McDougal, Buffalo.
J. H. Lascelles, Buffalo.
F. B. DeBerard, New York City.
William A. Rogers, Buffalo.
Howard Bissell, Buffalo.
Arthur D. Bissell, Buffalo.
Joseph Ripley, Albany.
Leonard W. H. Gibbs, Buffalo.
James R. Robinson, Ithaca.
Henry C. Allen, Syracuse.
Homer L. Bartlett, Brooklyn.
Elihue B. Bronson, Rochester.
Celestin C. Burns, Watertown.
Oliver J. Cabana, Buffalo.
A. Edwin Crocket, Rochester.
James Sherlock Davis, Brooklyn.
William M. Driscoll, Ithaca.
James P. B. Duffey, Rochester.
John G. Duffy, Utica.

Edwin A. Fisher, Rochester.
Lewis W. Francis, New York City.
Frank S. Gardner, New York City.
Charles T. Gwynne, New York City.
John J. Hartigan, Troy.
W. Gerald Hawes, New York City.
Clarence E. Holden, Whitehall.
Peter D. Kiernan, Albany.
Nelson B. Kilmer, Brooklyn.
Olin H. Landreth, New York City.
Charles F. MacLean, New York City.
Edward N. McKinney, Albany.
S. Christy Mead, New York City.
Jared T. Newman, Ithaca.
Welding Ring, New York City.
Alfred E. Roche, Troy.
R. A. C. Smith, New York City.
Arthur S. Somers, Brooklyn.
E. Platt Strattan, Garden City.
W. Pierrepont White, Whitesboro.
George W. Wilson, Brooklyn.
N. Irving Schermerhorn, Schenectady.
Henry Bruckner, New York City.
Albert Goldman, New York City.
Alexander Haring, New York City.
John A. Steinmetz, New York City.
Harry B. Chambers, New York City.
Michael B. McHugh, New York City.
Cyrus C. Miller, New York City.
David J. Conroy, New York City.
William M. Greer, New York City.
James R. Pollock, New York City.
Robert J. Moorehead, New York City.
Martin Walter, New York City.
Martin Conboy, New York City.
Arthur Knox, New York City.
Herbert Knox, New York City.
Joseph M. Callahan, New York City.

Charles Schneider, New York City.
Louis H. Werner, New York City.
George M. S. Schulz, New York City.
James Brackenridge, New York City.
William E. Thompson, New York City.
John Kadel, New York City.
John J. Duffy, New York City.
Merritt Spear, Plattsburgh.

Forestry, Reclamation and Home-Making

Oct. 31. Delegates to the Conference on Forestry, Reclamation and Home-making to be held in New Orleans, La., November 19-22, 1923.

Alexander Macdonald, Albany.
Franklin Moon, Syracuse.
A. R. Mann, Ithaca.
Albert T. Fancher, Salamanca.
William A. Welch, New York City.

Fair Price Coal Commissions.

The governor on October 23rd issued a proclamation wherein he stated, that whenever the Mayor of any City advised him that occasion required, he would appoint a Fair Price Coal Commission for that locality, such commissions to be unofficial and to consist of three members, one representing the consumers, one representing the coal merchants, both of whom are to be selected by the Mayor and a third member to be chosen by the Governor.

The following Commissions were created.

For the City of New York.

Nov. 13. Charles White Berry, of New York City.
George J. Eltz, of New York City.
Dr. Frank J. Monaghan, of New York City.

For the City of Corning.

- Nov. 13. Aaron F. Williams, of Corning.
 Thomas E. Moran, of Corning.
 William T. Smith, of Corning.

For the City of Yonkers.

- Nov. 13. Elmer A. Sheets, of Yonkers.

(Note.)—It was understood that the Mayor was not to make appointments to the above Commission unless conditions arose as the season progressed to justify such action.

For the City of Schenectady.

- Nov. 28 Dr. Edward H. Keller, of Schenectady.
 William D. Dunn, of Schenectady.
 Olney Redmond, of Schenectady.

For the City of Saratoga Springs.

- Dec. 3. Emerson E. Davis, of Saratoga.
 Eugene E. Hayden, of Saratoga.
 William E. Benton, of Saratoga.

For the City of Poughkeepsie.

- Dec. 10. William T. Ward, of Poughkeepsie.
 Clinton E. Lawrence, of Poughkeepsie.
 Otis Sherman, of Poughkeepsie.

Delegate to Conference of Governors.

Nov. 24. Delegate to represent State at Conference of Governors called by Governor Gifford Pinchot of Pennsylvania, to form definite plan of legislation to submit to Congress, tending to relieve coal situation.

Dr. Frank J. Monaghan, of New York City.

Harding Memorial Commission.

Nov. 24. Acting State Chairman of the Harding Memorial Association.

Addison B. Colvin, of Glens Falls.

National Rivers and Harbors Congress.

Dec. 3. Delegates to the Nineteenth Annual Convention of the National Rivers and Harbors Congress to be held in Washington, D. C., December 5-6, 1923.

George W. Van Slyke, of Albany.

Peter G. Ten Eyck, of Albany.

Roy F. Smith, of Albany.

Charles M. Winchester, of Albany.

William E. Woollard, of Albany.

William E. Fitzsimmons, of Albany.

Martin H. Glynn, of Albany.

William S. Hackett, of Albany.

Cornelius F. Burns, of Troy.

Donald G. Kibbey, of Albany.

Michael W. Shaughnessy, of Troy.

G. Wray Lemon, of Troy.

Murray Hulbert, of New York City.

John J. Sullivan, of Rensselaer.

Henry W. Hill, of Buffalo.

Otto Schmidt, of Brooklyn.

Charles E. Reid, of New York City.

Charles P. Brate, of Albany.

William L. Gillespie, of Albany.

Frank D. Sargent, of Albany.

U. G. Stockwell, of Albany.

Dr. Henry Moskowitz, of New York City.

E. W. Bates, of Albany.

VIII

DESIGNATIONS TO APPELLATE DIVISION AND
REQUIREMENTS UPON THE ATTORNEY-
GENERAL

VIII

DESIGNATIONS TO APPELLATE DIVISION AND REQUIREMENTS UPON THE ATTORNEY- GENERAL

Designation of Justice John V. McAvoy as Associate Justice of the Appellate Division of the Supreme Court for the First Department.

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with Section 2 of Article VI of the Constitution and the statute in such case made and provided, the Honorable JOHN V. McAVOY of the Borough of Manhattan, City of New York, who is a justice of the Supreme Court of the First Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department, for a term of five years beginning on the first day of January, nineteen hundred and twenty-three, in the place of the Honorable Samuel Greenbaum, who has resigned as such Associate Justice.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany, this first day
[L. s.] of January in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Designation of Justice Charles H. Kelby as Associate Justice of the Appellate Division of the Supreme Court for the Second Department.

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with Section 2 of Article VI of the Constitution, and the statute in such case made and provided, the Honorable CHARLES H. KELBY of the Borough of Brooklyn, City of New York, who is a Justice of the Supreme Court of the Second Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department for a term beginning on the First day of January, nineteen hundred and twenty-three and ending with his term of office as a Justice of the Supreme Court on the thirty-first day of December, nineteen hundred and twenty-five, in the place of the Honorable William J. Kelly, who has been designated as the Presiding Justice of said Appellate Division.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany, this first day
[L. s.] of January in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Revocation of designation of Justice Charles H. Kelby as Associate Justice of the Appellate Division of the Supreme Court for the Second Department.

STATE OF NEW YORK — EXECUTIVE CHAMBER

WHEREAS, the Honorable CHARLES H. KELBY, a Justice of the Supreme Court of the Second Judicial District, having been heretofore temporarily designated to sit as an Associate Jus-

tice of the Appellate Division of the Supreme Court in and for the Second Judicial Department, and he having filed his written request that such designation be revoked ;

NOW THEREFORE, in accordance with the statute in such case made and provided, the designation heretofore made on January first, nineteen hundred and twenty-two of the Honorable CHARLES H. KELBY to sit as an Associate Justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department, is hereby and at his own request revoked.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany, this first day
[L. S.] of January in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

**Designation of Justice William J. Kelly as Presiding Justice
of the Appellate Division of the Supreme Court for the
Second Department**

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with section 2 of article VI of the Constitution and the statute in such case made and provided, the Honorable WILLIAM J. KELLY of the Borough of Brooklyn, City of New York, who is a Justice of the Supreme Court of the Second Judicial District, is hereby designated as Presiding Justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department, in the place of the Honorable Abel E. Blackmar, whose term of office has expired, and to act as such Presiding Justice for a term ending with the expiration of his term as a Justice of the Supreme

Court on the thirty-first day of December, nineteen hundred and thirty.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany, this first day
[L. s.] of January in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Designation of Justice Henry T. Kellogg as Associate Justice of the Appellate Division of the Supreme Court for the Third Department

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with Section 2 of Article VI of the Constitution and the statute in such case made and provided, the HONORABLE HENRY T. KELLOGG of the County of Clinton, who is a Justice of the Supreme Court of the Fourth Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the Third Judicial Department, for a term of five years beginning on the first day of January, nineteen hundred and twenty-three, his prior designation as such Associate Justice having expired.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in City of Albany this first day of
[L. s.] January in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Designation of Justice Irving G. Hubbs as Presiding Justice of the Appellate Division of the Supreme Court for the Fourth Department

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with Section 2 of article VI of the Constitution, and the statute in such case made and provided, the Honorable IRVING G. HUBBS of the County of Oswego, who is a Justice of the Supreme Court of the Fifth Judicial District, is hereby designated as Presiding Justice of the Appellate Division of the Supreme Court in and for the Fourth Judicial Department, in the place of the Honorable Frederick W. Kruse, whose term of office has expired, and to act as such Presiding Justice for a term ending with the expiration of his term as a Justice of the Supreme Court on the thirty-first day of December, nineteen hundred and twenty-five.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this first day
[L.S.] of January in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Designation of Justice Leonard C. Crouch as Associate Justice of the Appellate Division of the Supreme Court for the Fourth Department

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with section 2 of article VI of the Constitution and the statute in such case made and provided, the Honorable LEONARD C. CROUCH, of the County of Onondaga, who is a Justice of the Supreme Court of the Fifth Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the Fourth Judicial Department for a term of five years beginning on the first day of January, nineteen

hundred and twenty-three in the place of the Honorable Irving G. Hubbs, who has been designated as Presiding Justice of the said Appellate Division.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this first day
[L. s.] of January in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Temporary designation of Justice Isaac M. Kapper as Associate Justice of the Appellate Division of the Supreme Court for the Second Department

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with section 2 of article VI of the Constitution and the statute in such case made and provided, the Honorable ISAAC M. KAPPER, of the Borough of Brooklyn, who is a Justice of the Supreme Court of the Second Judicial District is hereby temporarily designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department, it appearing to my satisfaction upon the certification of the Honorable William J. Kelly, the Presiding Justice thereof, that an additional Associate Justice is necessary for the speedy disposition of the business before the Court.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this eighth day
[L. s.] of January in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

**Designation of Justice Edgar S. K. Merrell as Associate
Justice of the Appellate Division of the Supreme Court
for the First Department**

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with section 2 of article VI of the Constitution and the statute in such case made and provided, the Honorable EDGAR S. K. MERRELL, of Lowville, who is a Justice of the Supreme Court of the Fifth Judicial District, is hereby redesignated as an Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department, for the term beginning with the fifth day of May, 1923, and terminating with the expiration of his present term of office on December thirty-first, 1923, his prior designation as such Associate Justice being about to expire.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this fourth day
[L. s.] of May in the year of our Lord one thousand nine
hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor :

GEORGE R. VAN NAMEE,
Secretary to the Governor.

**Designation of Justice Francis Martin as Associate Justice
of the Appellate Division of the Supreme Court for the
First Department**

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with section 2 of article VI of the Constitution and the statute in such case made and provided, the Honorable FRANCIS MARTIN of Bronx County, who is a Justice of the Supreme Court of the First Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for a term of five years, beginning on the twenty-

first day of May, 1923, to fill the vacancy caused by the resignation, as Justice of the Supreme Court, of Alfred R. Page.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this twenty-
[L. s.] first day of May in the year of our Lord one thou-
sand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Designating the Attorney-General to Represent the People
at an Extraordinary Special and Trial Term of the Su-
preme Court to be Held at White Plains, in the County
of Westchester, and to Appear Before the Grand Jury
for the Purpose of Managing and Conducting Criminal
Actions and Proceedings Against any Person or Per-
sons Growing out of an Alleged Blackmail against cer-
tain Person or Persons which preceded the Death of
and Based upon the Killing of one Clarence E. Peters

STATE OF NEW YORK — EXECUTIVE CHAMBER

HONORABLE CARL SHERMAN, *Attorney-General of the State of
New York, Capitol, Albany, N. Y.:*

Pursuant to the provisions of Section 62 of the Executive
Law, I hereby require that you, the Attorney-General of this
State, attend in person or by one of your deputies, an Extraor-
dinary Special and Trial Term of the Supreme Court appointed
to be held in and for the County of Westchester on the 25th
day of June, 1923, and that you in person or by said deputy
appear before the Grand Jury drawn for said term of said
court, and before any Grand Jury or Grand Juries which shall
be drawn and sit for any later term or terms of said court for
the purpose of managing and conducting in said court and
before said Grand Jury and said other Grand Juries, any and
all proceedings, examinations and inquiries, and any and all
criminal actions and proceedings which may be had or taken

by or before said Grand Jury concerning or relating to any criminal charge against any person or persons growing out of an alleged blackmail against certain person or persons, which preceded the death of one Clarence E. Peters, and growing out of or based upon the killing of said Clarence E. Peters on May 15th or 16th, 1922, and further to manage, prosecute and conduct the trial at said term of said court or at any term at which any and all indictments which may be found against any person or persons arising out of said blackmail or arising out of the killing of said Clarence E. Peters, may hereafter be tried, and that in person or by your deputy in the place and stead of the District Attorney of Westchester County, you exercise all the powers and perform all the duties conferred upon you by said section 62 and this requirement made thereunder; and that in such proceedings and actions the District Attorney of Westchester County shall only exercise such powers and perform such duties as are required of him by you or by the Deputy Attorney-General so attending.

GIVEN under my hand and the Privy Seal of the State,
at the Capitol in the City of Albany, this twenty-
[L. s.] fifth day of May, one thousand nine hundred and
twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Designation of Justice George McCann as Associate Justice of the Appellate Division of the Supreme Court for the Third Department

STATE OF NEW YORK — EXECUTIVE CHAMBER

It appearing to my satisfaction that the public interest requires it:

THEREFORE, in accordance with section 2 of article VI of the Constitution, the Honorable GEORGE McCANN, of the county

of Chemung, who is a Justice of the Supreme Court of the Sixth Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court, in and for the Third Judicial Department, for the term beginning on the twenty-seventh day of June, 1923, and ending with his term of office as Justice of the Supreme Court on December thirty-first, 1927, to fill the vacancy caused by the death of Michael H. Kiley.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this twenty-
[L. S.] sixth day of June in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

**Revocation of temporary designation of Justice Gilbert D.
B. Hasbrouck as Associate Justice of the Appellate
Division of the Supreme Court for the Third Depart-
ment**

STATE OF NEW YORK — EXECUTIVE CHAMBER

Whereas, The Honorable Gilbert D. B. Hasbrouck, a Justice of the Supreme Court of the Third Judicial District, having been heretofore temporarily designated to sit as an Associate Justice of the Appellate Division of the Supreme Court in and for the Third Judicial Department and he having filed his written request that such designation be revoked;

NOW, THEREFORE, in accordance with the statute in such case made and provided the designation heretofore made of date September 12th, 1922, of the Honorable Gilbert D. B. Hasbrouck, to sit as an Associate Justice of the Appellate Division

of the Supreme Court in and for the Third Judicial Department is hereby and at his own request revoked.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the city of Albany this twenty-
[L. s.] fourth day of November in the year of our Lord
one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Designation of Justice Irving R. Defendorf to hold Extraordinary Trial Term of the Supreme Court heretofore convened in Waterloo, Seneca County, in place of Justice Adolph J. Rodenbeck

STATE OF NEW YORK — EXECUTIVE CHAMBER

WHEREAS, On the eighteenth day of October, nineteen hundred and twenty-three, an Extraordinary Trial Term of the Supreme Court was appointed to be held in Waterloo, Seneca County, New York, and

WHEREAS, Honorable Adolph J. Rodenbeck, a Justice of the Supreme Court, who was designated to preside at said Extraordinary Trial Term of Court is ill and unable to serve, and the said Extraordinary Trial Term being still in session,

NOW, THEREFORE, I, Alfred E. Smith, Governor of the State of New York, do hereby designate IRVING R. DEVENDORF, of Herkimer, N. Y., a Justice of the Supreme Court, to hold the said Extraordinary Trial Term of Court as heretofore convened and for the purpose as recited in the order dated October

eighteenth, nineteen hundred and twenty-three, in the place and stead of Justice Adolph J. Rodenbeck.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this fourteenth
[L. s.] day of December in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

IX
SPECIAL TERMS OF COURT

[363]

IX

SPECIAL TERMS OF COURT

Extraordinary Special and Trial Term of the Supreme Court, Village of White Plains, County of Westchester, for the Purpose of Conducting Proceedings, Concerning or Based upon the Death of one Clarence E. Peters

STATE OF NEW YORK — EXECUTIVE CHAMBER

It appearing to my satisfaction that the public interest requires it;

Therefore, in accordance with the statute in such case made and provided, I do hereby appoint an extraordinary Special and Trial Term of the Supreme Court to be held at the Court House in the Village of White Plains, Westchester County, on the 25th day of June, 1923, at ten o'clock in the forenoon of that day, and to continue so long as may be necessary for the disposal of the business which may be brought before it, and I do hereby designate HONORABLE ROBERT F. WAGNER, of the City of New York, who is a Justice of the Supreme Court of the First Judicial District, to hold the said Extraordinary Special and Trial Term as hereinbefore described, and, among other things, to cause to be drawn, according to law, a Grand Jury to serve at said Extraordinary Trial Term of the Supreme Court, and I do further direct that notice of such appointment be given by publication of this order once in each week for three successive weeks in the Eastern State Journal, the Reporter and

the Westchester News, newspapers published at White Plains, in the County of Westchester.

GIVEN under my hand and the Privy Seal of the State,
at the Capitol, in the City of Albany, this twenty-
[L. S.] fifth day of May, one thousand nine hundred and
twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

**Extraordinary Special Term of the Supreme Court, County
of New York, for the Purpose of Acting on the Matter
of the Removal of Manhattan Railway Structures and
Appurtenances on Forty-second Street, New York City**

STATE OF NEW YORK — EXECUTIVE CHAMBER

It appearing to my satisfaction that the public interest requires it

THEREFORE, in accordance with the statute in such case made and provided, I do hereby appoint an Extraordinary Special Term of the Supreme Court to be held at the County Court House in the County of New York on the twenty-seventh day of September, 1923, at ten o'clock in the forenoon of that day, for the purpose of acting on the matter of

“The application of the City of New York, relative to acquiring title to the elevated railroad structure, tracks, stations, platforms, stairways and appurtenances of the Manhattan Railway Company, or by whomsoever owned, in East 42nd Street, constituting the existing 42nd Street Spur, in the Borough of Manhattan, City of New York, and also to acquire the right to extinguish all rights, easements and franchises of every nature whatsoever of said Manhattan Railway Company or by whomsoever owned, to construct, maintain and use said elevated

railroad structures, tracks, stations, platforms, stairways and appurtenances”

and of conducting the trial of the same for the purpose of determining the damages, if any, to be paid by said City of New York for the taking of said property and the assessment of said damages upon the real property situated within the Zones of assessment and in the proportions heretofore designated by the Board of Estimate and Apportionment of the City of New York and for such other business as may be brought before said Term, and which Term is to continue as long as may be necessary for the disposal of the business which may be brought before it, and I do hereby designate the Honorable James O'Malley, who is a Justice of the Supreme Court of the First Judicial District to hold said Extraordinary Special Term of the Supreme Court as hereinbefore described.

And I do hereby direct that notice of such appointment be given by publication of this order once in each week for two successive weeks in the “New York Law Journal,” “New York Times,” “New York World,” and “New York Herald,” respectively, newspapers published in the City and County of New York, N. Y., said publication to appear in each of the said newspapers on the thirteenth day of September, 1923, and on the twentieth day of September, 1923.

GIVEN under my hand and the Privy Seal of the State,
at the Capitol, in the City of Albany, this eleventh
[L. S.] day of September, in the year of our Lord one
thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

NOTE.—The above order superseded and revoked by subsequent order issued September 14th.

Extraordinary Special Term of the Supreme Court, County of New York, for the Purpose of Acting on the Matter of the Removal of Manhattan Railway Structures and Appurtenances on Forty-Second Street, New York City

STATE OF NEW YORK — EXECUTIVE CHAMBER

It appearing to my satisfaction that the public interest requires it

THEREFORE, in accordance with the statute in such case made and provided, I do hereby appoint an Extraordinary Special Term of the Supreme Court to be held at the County Court House in the County of New York on the twenty-seventh day of September, 1923, at ten o'clock in the forenoon of that day, for the purpose of acting on the matter of

“The application of the City of New York, relative to acquiring title to the elevated railroad structure, tracks, stations, platforms, stairways and appurtenances of the Manhattan Railway Company, or by whomsoever owned, in East 42nd Street, constituting the existing 42nd Street Spur, in the Borough of Manhattan, City of New York, and also to acquire the right to extinguish all rights, easements and franchises of every nature whatsoever of said Manhattan Railway Company or by whomsoever owned, to construct, maintain and use said elevated railroad structures, tracks, stations, platforms, stairways and appurtenances”

and of conducting the trial of the same for the purpose of determining the damages, if any, to be paid by said City of New York for the taking of said property and the assessment of said damages upon the real property situated within the Zones of assessment and in the proportions heretofore designated by the Board of Estimate and Apportionment of the City of New York and for such other business as may be brought before said Term, and which Term is to continue as long as may be necessary for the disposal of the business which may be brought before it, and I do hereby designate

the Honorable James O'Malley, who is a Justice of the Supreme Court of the First Judicial District to hold said Extraordinary Special Term of the Supreme Court as hereinbefore described.

And I do hereby direct that notice of such appointment be given by publication of this order in the "New York Law Journal," "New York Times," "New York World," and "New York Herald," respectively, newspapers published in the City and County of New York, N. Y., said publication to appear in each of the said newspapers on the seventeenth day of September, 1923, and on the twentieth day of September, 1923.

This order supersedes and revokes my prior order in the premises dated September eleventh, 1923.

GIVEN under my hand and the Privy Seal of the State,
at the Capitol in the City of Albany, this four-
[L. s.] teenth day of September in the year of our Lord
one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

**Extraordinary Trial Term of the Supreme Court, Village
of Waterloo, County of Seneca, for the Purpose of
Conducting the Trial of Nettie Case Taylor, Charged
with Murder in the First Degree**

STATE OF NEW YORK — EXECUTIVE CHAMBER

It appearing to my satisfaction that the public interest requires it;

THEREFORE, In accordance with the statute in such case made and provided I do hereby appoint an Extraordinary Trial Term of the Supreme Court to be held at the Court House at Waterloo, New York, in the county of Seneca on Monday, the seventeenth day of December, nineteen hundred and twenty-three,

at ten o'clock in the forenoon of that day and to continue so long as may be necessary for the disposal of the business which may be brought before it; and I do hereby designate Honorable ADOLPH J. RODENBECK, of Rochester, New York, who is a Justice of the Supreme Court of the Seventh Judicial District to hold said Extraordinary Trial Term as hereinbefore described, and I do further direct that notice of such appointment be given by the publication of this order once a week for three successive weeks in the Reville and Seneca County Courier, papers printed at Seneca Falls, New York.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this eighteenth
[L. s.] day of October in the year of our Lord one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

NOTE.—This Extraordinary Trial Term is called at the request of the District Attorney of Seneca County and also at the request of the Attorney for the defendant. Justice Irving R. Defendorf was subsequently designated to conduct above mentioned term of court, Justice Rodenbeck by reason of illness being unable to serve.

X

**REMOVAL PROCEEDINGS AND
INVESTIGATIONS**

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X

REMOVAL PROCEEDINGS AND INVESTIGATIONS

In the matter of charges against Walter W. Law, Jr., a commissioner and president of the State Tax Commission

NOTICE AND SUMMONS

STATE OF NEW YORK — EXECUTIVE CHAMBER

To WALTER W. LAW, JR., a Commissioner of the State Tax Commission, Albany, N. Y.:

SIR.—YOU ARE HEREBY ORDERED TO SHOW CAUSE before me, at the Executive Chamber, State Capitol, in the City of Albany, New York, on the nineteenth day of January, 1923, at twelve o'clock noon, why you should not be removed from the office of State Tax Commissioner and President of the State Tax Commission for neglect of duty or misfeasance in office, generally and specifically upon the following grounds:

1. That you as President of the State Tax Commission have neglected and failed to perform the duty of reorganizing, consolidating, coordinating, correlating and unifying the work of the various agencies, bureaus, offices, and units previously constituting the State Tax Department, and those transferred to it by Chapters 90, 443 and 445 of the Laws of 1921, and acts supplemental thereto and amendatory thereof, and to adopt means, methods, procedure, and policies intended and designed to promote that reasonable measure of efficiency and economy in the service and convenience to the public made possible by the reorganization and consolidation.

2. That you as President of the State Tax Commission have neglected and failed to adopt, promulgate, and enforce uniform rules and regulations governing and controlling the personnel and office procedure, methods, and policies of the various bureaus and internal office organization of the department, but, on the contrary, have permitted the continuance of widely different procedures, methods, and policies in the various internal departmental units in respect of subject matter where uniformity should prevail, all of which has resulted in harm, detriment, and injury to the service.

3. Although there was appropriated for the current year substantially if not exactly, the amount estimated by you as necessary to be appropriated to meet the cost of operating the department, that you as President of the State Tax Commission have neglected and failed to so plan the finances and organize the work of the department as to keep the cost of its operations within the amount appropriated.

4. That you as President of the State Tax Commission have neglected and failed to so plan, organize, systematize, correlate and arrange the work of the Motor Vehicle Bureau of the State Tax Department as to render to the public reasonably adequate service, and to protect the interests of the people of the State.

IN WITNESS WHEREOF, I hereunto set my hand and
affix the Privy Seal of the State at the Capitol
[L. S.] in the city of Albany this ninth day of January
in the year of our Lord one thousand nine hundred
and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Detailed Specification of Charges

STATE OF NEW YORK — EXECUTIVE CHAMBER

In the Matter of the removal of Walter W. Law, Jr., from the office of State Tax Commissioner and President of the State Tax Commission

ALBANY, January 15, 1923.

To Walter W. Law, Jr., President, State Tax Commission, Albany, New York:

Complying with your request of January 11, 1922, that you be more fully acquainted with the nature and details of the charges made against you by the Governor on January 9, 1922, and to facilitate the preparation of your defense and the production of evidence on your behalf, the following more detailed specification of the charges, is furnished. These details shall not be construed by you to narrow the scope of the original charges or to be in substitution for them. To answer all your questions in order would result in unnecessary repetition; hence, some are combined for the sake of convenience and brevity.

As to Paragraph I of the Charges

(a) and (b) You have failed to reorganize, consolidate, co-ordinate, correlate, and unify the work of the department, and have failed to adopt means, methods, procedure and policies intended and designed to promote a reasonable measure of efficiency and economy in service and convenience to the public, with respect to the following functions and activities of the department:

1. The collection of taxes and license fees.
2. The work of appraisers of estates of decedents for inheritance tax purposes and the work of the transfer tax attorneys.
3. The work of transfer tax appraisers in the counties where you maintain branch offices of the Tax Department with the other work of those offices.
4. The work of the branch offices of the Income Tax Bu-

reau with the work of the branch offices of the Motor Vehicle Bureau.

(c) All the foregoing matters constitute neglect of duty in that you have incurred needless expense, created, or continued, needless and unnecessary positions, duplicated the work of the various branches of the department, and failed to facilitate the public or to minister to its convenience, to the harm, detriment, and injury of the service.

(d) The following bureaus and agencies should have been consolidated, reorganized, coordinated, correlated and unified:

1. The Corporation Tax Bureau of the Comptroller's office should have been consolidated and coordinated with the collection division and district offices of the Income Tax Bureau of the Comptroller's office, both of which were transferred to the Tax Department, so that one set of offices and employees would collect both corporation and personal income taxes, instead of maintaining the two separate and independent agencies that were in existence before the consolidation.

2. The branch offices of the Motor Vehicle Bureau in Albany and New York and in Buffalo — if, indeed, the Buffalo office should have been maintained at all — should have been coordinated, consolidated, and articulated with the branch offices of the Income Tax Bureau in those cities, instead of maintaining two separate and independent branch offices in these cities, as was the case when these functions were separately administered by the Secretary of State and the Comptroller, respectively.

3. The offices of appraiser and of transfer tax attorney in the County of New York should have been unified, coordinated and consolidated so as to eliminate the duplication of work now going on.

4. The offices of appraiser of transfer taxes in the counties of Kings, Albany, Oneida, Onondaga, Monroe and Erie should have been consolidated, unified, and coordinated with the branch offices of the department maintained in the county seats of these counties.

5. The work of appraisers and attorneys in transfer tax matters should have been reorganized, consolidated, correlated,

coordinated and unified in all the other counties having salaried appraisers.

6. Or a reorganization plan along other logical lines should have been prepared, adopted and established in place of that specified in paragraphs one to five inclusive, (immediately above) which would have resulted in consolidating, coordinating, correlating and unifying the work of your department, and in economy and efficiency in the service, and convenience to the taxpayers having dealings with your department.

As to Paragraph II of the Charges

You are accused of neglect of duty in the second charge, in the following respects:

1. You enforced the one year statute of limitations in the Corporation Tax Bureau (Tax Law, sections 198 and 218) and did not enforce the similar one year statute of limitations (Tax Law, section 374) in the Income Tax Bureau, continuing in both these bureaus the same policies you found there before the consolidation although they are diametrically opposed to each other.

This resulted in harm, detriment and injury to the service, inasmuch as taxpayers found one bureau of your department construing a law one way, and another bureau of the same department construing a similar law in an opposite manner. Either the Corporation Tax Bureau denied to taxpayers their just and equitable rights, or the Income Tax Bureau made free and unwarranted disposition of public moneys.

2. You continued the maintenance of records showing the results of the work of the various branches and activities of the Income Tax Bureau, but established and required none, of the other bureaus of the department.

This resulted in harm, injury, and detriment to the service in that you are not able to judge correctly whether the work of various branches and activities of other bureaus yield revenue sufficient to justify their continuance, or the relative productivity of the various activities and branches, so that you can abandon that work relatively unproductive, and extend that which yields the greater revenue.

3. You have continued to keep records showing the amount of work done by most of the employees of the Income Tax Bureau, but established and required none for the employees of other bureaus.

This has resulted in harm, injury, and detriment to the service, as the employees of one bureau were made accountable for known quantities of work, while those in other bureaus were not, and in that, you failed to adopt throughout your department a policy of work production records, which were of proved efficacy in one of the bureaus thereof.

4. You advised and guided the public with respect to the requirements of the Income Tax Law, by an intensive publicity campaign before the returns and taxes under that law were due, but you did not similarly guide and instruct the public with respect to the requirements of the Motor Vehicle Law.

This resulted in harm, detriment, and injury to the service, and inconvenience to the public, in that the public was largely unaware of the changed requirements of the Motor Vehicle Law and of the changed policy of your department, and to this may be attributed, in no small measure, the serious inconvenience to the public and your failure to render adequate service with respect to motor vehicle registrations.

5. You continued the policy of issuing regulations and rulings explaining the Income Tax Law and the department's construction of its various provisions, but adopted no similar policy for other bureaus, such as, the Corporation Tax Bureau, and the Inheritance Tax Bureau.

This resulted in harm, detriment, and injury to the service, in that you failed to render adequate and reasonable service to the public, as it was in the dark concerning your interpretation and application of the Tax Laws, as applied to the taxation of corporations and the estates of decedents. That ignorance, and your policy causing it, resulted in unfair and inequitable treatment to taxpayers, as only those taxpayers who were represented by counsel coming frequently before your department, knew of your rulings or policies with respect to those tax problems that the law itself did not make clear.

As to Paragraph III of the Charges

You should know the answers to your questions under this paragraph.

However, in order to give you the information you ask, the following is furnished:

(a) The amount appropriated for the current year for your department was \$2,490,000.

(b) The amount estimated by you as necessary to appropriate for the current year to meet the cost of operating the department, was \$2,488,908.

(c) The amount that the cost of operations of the department exceeds the amount appropriated for the current year cannot yet be known, as the year is not ended, but your request for deficiency appropriations of \$255,000 to supplement the appropriations for the current year indicates that you planned to exceed the amount appropriated by that sum.

As to Paragraph IV of the Charges

(a) You have neglected and failed to plan, organize, systematize, correlate and arrange the work of the Motor Vehicle Bureau so as to render reasonable, adequate service and to protect the interests of the people of the State in the following respects:

1. By failing to make application blanks available to the public without undue effort and loss of time.

2. By failure to give sufficient publicity of the date for securing license plates, and the places in New York City where they, and application blanks, could be obtained.

3. By failing to provide facilities for the prompt and convenient handling of the business and the accommodation of the public, or clerks to attend to them promptly.

4. By discriminating in favor of some applicants, and permitting or failing to prevent collusion between employees of the bureau and outsiders whereby these outsiders were able to secure plates out of turn, and to advertise that fact, and to solicit such business from applicants waiting in line, or by failing to adopt and enforce rules preventing that condition and that practice.

(b) and (c) The answers to (b) and (c) under this charge, are largely indicated by the above. You should have done that which was necessary to correct the omissions and faults, and in the way or ways necessary and best suited for their correction.

(Signed) ALFRED E. SMITH.

Order of Removal

STATE OF NEW YORK — EXECUTIVE CHAMBER

In the Matter of the Charges Preferred against Walter W. Law, Jr., State Tax Commissioner and President of the State Tax Commission.

WHEREAS, charges of misfeasance in office and neglect of duty having been preferred by the Governor against Walter W. Law, Jr., State Tax Commissioner and President of the State Tax Commission of the State of New York, and a copy of said charges, with a notice and summons fixing the 19th day of January, 1923, at twelve o'clock noon, at the Executive Chamber, as the day and hour on which he would be afforded an opportunity of being heard in his defense, having been served upon, and given to, the said Walter W. Law, Jr., on the 9th day of January, 1923; and

WHEREAS, the said Walter W. Law, Jr., did, on the 11th day of January, 1923, request more specific information concerning the facts charged against him; and

WHEREAS, there was served upon, and given to, the said Walter W. Law, Jr., on the 15th day of January, 1923, more detailed specifications of the charges against him; and

WHEREAS, the said Walter W. Law, Jr., did appear, with counsel, on the aforesaid date, and file his answer thereto, and answered orally certain questions propounded by the Governor and subsequently supplied information concerning such questions as he was unable to answer at the time;

NOW, THEREFORE, after due consideration of the answer presented by the said Walter W. Law, Jr., the oral answers given by him to questions propounded by the Governor, and the written information supplementary thereto, received from the

said Walter W. Law, Jr., it appearing, to my satisfaction, that the said Walter W. Law, Jr., has, as charged, been guilty of misfeasance in office and neglect of duty, it is hereby

ORDERED, that the said Walter W. Law, Jr., be, and he is hereby, removed from the office of State Tax Commissioner and President of the State Tax Commission.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this thirtieth
[L. s.] day of January in the year of our Lord one thou-
sand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Opinion of the Governor

STATE OF NEW YORK — EXECUTIVE CHAMBER

In the Matter of the Charges Preferred against Walter W. Law, Jr., a Commissioner and President of the State Tax Commission.

ALBANY, January 30, 1923.

Honorable Walter W. Law, Jr., President, State Tax Commission, Albany, New York.

DEAR COMMISSIONER LAW:

On January 9, 1923, I preferred charges against you for neglect of duty and misfeasance in office and in accordance with the statute provided in such cases I delivered to you copies of the charges. Therein contained was a notice to appear before me in the Executive Chamber on January 19, 1923, at twelve o'clock noon, to make answer to such charges.

Following the service of such charges upon you, you asked for more detailed specifications. That request was complied with on January 15, 1923.

You appeared before me, as required, on January 19, 1923, and filed a written answer. With such answer you submitted certain documentary evidence and at my request you testified orally in answer to questions asked by myself.

I have given thoughtful consideration, not only to your answer as presented in writing, but to your answers on the oral examination, and I find that you did not answer my questions satisfactorily nor did you, in your written answer, meet the charges preferred by me. I reach this conclusion after careful study and I have determined from the record of your department and from your own answers that you neglected and failed to consolidate and reorganize the work of the Tax Department in accordance with the plan outlined in Governor Miller's message, following which the statute that authorized these consolidations was enacted. Governor Miller outlined, in a comprehensive way, the need of a plan for consolidating and reorganizing the tax work of the State. The essence of his plan, as seen from his message, was the necessity of promoting efficiency, economy and convenience to the taxpayers by putting the tax collecting agencies of the State under one head. He took occasion to say that office equipment could be saved and office forces could be reduced by distributing the peak load throughout the year so as to utilize the forces, in part at least, in different collections. This was no new idea in government. It was suggested as far back as 1915 by Governor Whitman and was defeated by political forces united to protect patronage.

In order that there might be no reason for the shifting of responsibility in the performance of the duties imposed by this statute, the law creating the present Tax Department was so drawn as to give you, its president, the sole power to carry into effect the principles which are well defined, well understood and laid down in Governor Miller's message in no uncertain terms. You were given a free and full opportunity to consolidate, reorganize and coordinate all of the tax collecting departments of the State. If I understand the meaning of the word "consolidate" it means to unite into one, to combine, just as reorganize means to rearrange and systematize.

I will disregard for the time being your written answer and

will take your oral testimony given before me at the hearing, in which testimony you are quoted as saying in effect that you were entirely out of sympathy with this well conceived plan put forth by Governor Miller and you urged as a reason for your position that you did not believe that it could be accomplished, although all of your testimony, oral and written, clearly indicates that you made little or no effort to try it.

Without going into too much detail, your attitude toward the Motor Vehicle Bureau in the City of Buffalo indicates your general feeling in the matter. I carefully studied the reasons that you gave at the hearing for maintaining in violation of the law, the Buffalo Motor Vehicle Bureau. I say in violation of the law after a careful reading of the opinion of the Attorney General, which opinion you would not have sought without some particular reason and I am entirely within the truth when I say that the reason offered by you has no foundation in fact. I further feel that I am entirely within the truth when I say that it is my honest belief that you maintained the Buffalo Motor Vehicle office purely for patronage purposes. That you were unable, as you yourself claim, to find office space for the unification of tax collecting activities is, to say the least, ridiculous. Whatever may be the physical conditions, certainly no reason can be offered for maintaining supervisory forces over two different offices engaged in a single line of business. Giving to you the full benefit of the doubt and assuming that even by misguided judgment you felt that you were right in continuing the Buffalo office for the Motor Vehicle Bureau, certainly no reason has been advanced why it should not be combined with the Income Tax Bureau existing under separate management and in separate quarters in the same city.

Governor Miller, in his message, calls special attention to the Inheritance Tax Bureau, with regard to the cost of collecting that particular tax. You did nothing to lower materially the rate of collecting that tax, which rate the Governor said "has been too high, and always has been too high," due, as he said, to cumbersome methods and the abuse of political patronage. The claim you made of a substantial reduction in cost,

has no foundation in fact. You show a saving of \$64,000 by the simple device of including that amount of county treasurers' fees in the year before the consolidation and excluding them entirely in your first year. You compare your cost of this bureau with a figure not representative of the cost of collecting this tax—as you must know, if you are familiar with the facts—and by this method of twisting figures and distorting totals claim a saving of more than \$200,000.

All the facts here indicate that you were concerned with patronage rather than with the question of economy. An example of this might well be found in the comparison of costs as between your own county of Westchester and the County of the Bronx. In the Bronx you have a large fixed overhead but a small amount for attorney fees while on the other hand the fixed charges of Westchester County are a little over half as much as the Bronx but the attorney fees are more than three times as much. This shows a lack of proper planning as between only two counties in the working out of your overhead expenses and leaving such latitude in counsel fees as would suggest the possibility of political preference for services performed.

One of the serious charges that I urged against you at the hearing was that you did not so plan the finances of your department as to keep within the appropriation granted to you by the Legislature. At the hearing you claimed to have requested of the Legislature of 1922 appropriations totaling in round figures \$2,719,000. That assertion by you is not borne out by the official publication of departmental requests. I quote from the record and I refer you to pages 132 to 159 of the "Departmental Requests" wherein it appears that your total request was for \$2,488,908 and the appropriation bill shows that that amount was appropriated. In fact, more than that was appropriated. Your answer that the Budget Committee requested you at some future time to ask for additional money is entirely insufficient. Every departmental head could urge the same reason that you did for overrunning appropriations. If what you say is true then the last administration deliberately refrained from making what it considered to be adequate appro-

priations for the support of government and deliberately planned to pass on to the succeeding administration deficiencies that they themselves knew were bound to occur. That, however, is entirely aside from the question. You were allowed a given amount of money and it was your duty to live within that appropriation. If Governor Miller occupied the place I now occupy and desired to live up to the statement that he made he would be obliged to remove you in accordance with his promise to the people that he would separate any official from his position who exceeded the amount granted to him by the Legislature for the maintenance of his department. You would have me, in your testimony, believe that he connived at your action in exceeding your appropriation. This I refuse to believe.

After careful consultation with your attorneys and subsequent to the filing of charges you made a great point of the fact, if it be one, that you could live within your appropriation in the six months left in this fiscal year. If that be true, why did you not live up to it in the first six months and what did you have in your mind when you requested a deficiency appropriation of more than a quarter of a million dollars?

I am unable to agree with your reasoning that you created no obligation for motor vehicle plates, that the law did that, and that you were not required to file notice of the liability with the Comptroller. The obligation for motor vehicle plates is one your department must meet, and the theory of that provision of law requiring notice to the Comptroller, was to inform the Comptroller what obligations were outstanding against existing appropriations. That you owe the money indirectly to the State, is no excuse for your failure to keep the financial record of the State in a condition that will permit the fiscal authorities to understand, at all times, what your obligations are, and the status of appropriations.

Your constant appearance before the Budget Committee for increases in salaries and the creation of new places within your department, after you had allocated the entire amount appropriated for personal service, to my mind was nothing more or less than a desire to satisfy sections of the State with

political patronage. There can be no justification for the employment by you of so many laborers on a per diem basis. Your unfamiliarity with the details of your department with respect to this particular situation was disclosed at the hearing, as you required additional time to make answer to that question and in your supplementary answer on January 22, 1923, you give the number as thirty-four laborers. What that number of laborers can possibly be doing week in and week out throughout the year in your department is more than I am able to understand. I venture to say you can make no real explanation of it yourself.

Furthermore, your supplementary answer contains some information which ought to be interesting to the taxpayers of the State. The man on the street who meets the tax certainly will never understand why you required 243 employees to do in seven counties what 220 employees used to do in 62 counties. There can be only one answer and that is that your department was intended to supply political needs first and public needs second.

I am entirely dissatisfied with your answer to the public complaint about the handling of the motor vehicle business in the City of New York. Upon your own statement, you failed even to make any investigation of it although public dissatisfaction and complaint was widespread. I have in my possession evidence that there existed in New York City a well defined plan by which applicants were given private access to the motor vehicle bureau for the securing of number plates upon payment of a fee, which applicants would otherwise have been required to take their places in the long line. The public press in no uncertain terms complained of irregularities, to which, by your own statement, you paid no attention and your testimony before me clearly indicates that the public convenience was the last thing that you considered, if you considered it at all.

In your public examination you laid great stress upon the fact that you effected a large saving in the department, something, I think you stated, in excess of one-half million dollars. Your statements were inaccurate and misleading. I am unwilling to

believe that they were intentional, and I prefer to cling to the thought that you were not familiar with their contents and the facts. How could you claim a saving of \$81,000 on motor vehicle plates, when, in the same breath, you say you created no liability for the plates? Moreover, why did you compare the cost of plates in your first year with the cost in the previous year, plus a part of the cost of those for a former year? The real fact is that you claim for yourself and your administration a saving in the motor vehicle plates, which in fact was due to your ability to buy them from the Prison Department practically at cost. Obviously in this instance you have claimed in your statement credit for a saving which never took place. You made no comparison of fees paid to county treasurers for the collection of inheritance taxes between 1921 and 1922 but boldly took credit for saving the \$64,000 paid in fees to these county officials. You neglected entirely to offset in the items of 1922 as against 1921 the thousands of dollars of equipment used as part of the cost of collecting taxes.

In conclusion let me say that in my opinion you not only lack the ability to do this job properly but by your own testimony you lack the inclination. You have set at naught the well defined program of consolidation and unification of taxing agencies and you have done nothing more or less than to continue them as they existed, as scattered agencies without a single head, with the same cost of upkeep, of supervision and of maintenance. Apparently the Governor's well thought out plan and clearly defined message meant nothing to you. Under your system of supervision the State would be infinitely better off had it left in their original place all of these different taxing agencies. There would at least be an understanding of what was really going on.

If you have any doubt in your mind about the soundness of Governor Miller's plan, I will show you how to make it effective and because you did not do it and because you openly stated that you did not believe that it could be done, and for the other reasons set forth in my bill of complaint and contained in this letter, I find you clearly guilty of a palpable neglect of duty and you are hereby removed from the office of State Tax

Commissioner and President of the State Tax Commission and the notice of your removal is duly filed.

Very truly yours,

(Signed) ALFRED E. SMITH.

**In the Matter of Charges against Burt E. Smalley, Sheriff
of the County of Seneca**

NOTICE AND SUMMONS

STATE OF NEW YORK — EXECUTIVE CHAMBER

*In the Matter of the Charges preferred against Burt E.
Smalley, Sheriff of Seneca County, New York.*

To Burt E. Smalley, Sheriff of Seneca County, New York:

Sir—You are hereby notified that charges have been preferred against you and that your removal from office as Sheriff of the County of Seneca, State of New York, has been asked. A copy of such charges is herewith served upon you.

I hereby fix the twentieth day of February, 1923, at twelve o'clock noon, as the date on or before which your answer to said charges shall be filed with me and you are hereby further notified that on said twentieth day of February, 1923, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being publicly heard in your own defense.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed the Privy Seal of the State at the Capitol
[L. S.] in the City of Albany this ninth day of February
in the year of our Lord one thousand nine
hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Appointment of Commissioner

STATE OF NEW YORK — EXECUTIVE CHAMBER

*In the Matter of the Charges against Burt E. Smalley, Sheriff
of the County of Seneca.*

Charges having been filed with me on the thirty-first day of January, nineteen hundred and twenty-three, by Charles A. Long of Waterloo against BURT E. SMALLEY, with a petition that he be removed from his office as Sheriff of the County of Seneca, and a copy thereof having been served upon the said Sheriff of the County of Seneca, who has filed an answer denying said charges.

NOW, THEREFORE, pursuant to the statute in such case made and provided, I do hereby appoint J. HERBERT GILROY, of Utica a Commissioner to examine witnesses and take evidence as to the truth of such charges, and I hereby direct said Commissioner to report to me the said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this seventh
[L. s.] day of March in the year of our Lord one thousand
nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

REPORT OF COMMISSIONER

In the Matter of the Charges Preferred against Burt E. Smalley, Sheriff of Seneca County, New York.

October 5, 1923.

To his Excellency, THE HONORABLE ALFRED E. SMITH, Governor of the State of New York:

Pursuant to a Commission given under your hand and the Privy Seal of the State of New York, at the Capitol in the City of Albany, the 7th day of March, in the year of Our Lord, one thousand nine hundred and twenty-three, by which I was appointed Commissioner to examine witnesses and take evidence as to the truth of the charges filed by Charles A. Long against Burt E. Smalley, and further directed to report the said evidence together with Findings of Material Facts deemed by me to be established in connection with said charges, together with my conclusions thereon, I, the subscriber do hereby certify and report as follows:

That I first took the oath required by law and the same was filed with the Secretary of State and the County Clerk of Seneca County, New York. That attached hereto is a transcript of the testimony numbered pages 1 to 861, inclusive, taken before me, together with the Exhibits which were filed with me and referred to in this my said report.

I further report that I attended at Seneca Falls and Waterloo on March 24, 1923, and arranged for a hearing with Attorney Daniel W. Moran, Counsel for the Sheriff, and with the complainant, Mr. Charles A. Long.

That subsequently the hearing was regularly brought on before the undersigned as commissioner on the 31st day of May, 1923, at the Court House in the village of Waterloo, County of Seneca and State of New York, and hearings were held from time to time until July 27, 1923, on which said date the testimony was closed.

That the complainant appeared in person and by his attorneys, Messrs. A. J. & F. A. Parker, and that Sheriff Smalley appeared in person and by his attorney, Daniel W. Moran,

Esq., and the evidence on behalf of the parties has been duly heard and the witnesses on both sides duly sworn and their testimony duly taken before me, and the following Findings of Facts and Conclusions thereon are hereby respectfully submitted.

FINDINGS OF FACT

I

That Burt E. Smalley, a resident of Interlaken in the south end of Seneca County, State of New York was duly elected Sheriff of Seneca County in November, 1921, and his term of office commenced on January 1, 1922, and he still continues as Sheriff of Seneca County, residing in and occupying the Jail Residence in the village of Waterloo, which said village is the northern county seat of Seneca County. That the sheriff's wife and his two sons, both of whom are under age, reside with him, as has also an aunt of Sheriff Smalley, Mary L. Porter, during a portion of his administration.

II

That Charles A. Long of the village of Waterloo, Seneca County, New York, was duly appointed under-sheriff of Seneca County upon the specific request and recommendation of Clifford L. Beare, Esq., the present County Chairman of the Democratic organization of Seneca County, New York, and that said Beare acted as adviser and counsel to Sheriff Smalley from about January 1, 1922, until the fall of that year. That at the time of Long's appointment as under-sheriff, Clifford L. Beare requested Smalley to remain in the south end of the county and permit Long to take possession of the Jail Residence at Waterloo, which the Sheriff refused to do. That in the Fall of 1922, Beare and Long requested Smalley to remove to Ovid, the southern county seat of Seneca County, which had been re-established by the Board of Supervisors of Seneca County and permit under-sheriff Long to occupy the Jail Residence at Waterloo. Sheriff Smalley declined to obey their wishes and instructed Long to take over the occupancy of the County Buildings at Ovid which the said Long refused to do and subsequently resigned as under-sheriff. That about a

month following the resignation of Long, the charges herein were filed by him with your Excellency.

III

It appears from the evidence adduced that Sheriff Smalley's organization, in addition to the under-sheriff, consisted solely of Bertha E. Smalley, his wife, who acted in the dual capacity of deputy sheriff and turnkey. That throughout the Spring and Summer of 1922, a great deal of the sheriff's time was spent with State Troopers on the state highways throughout Seneca County and adjacent counties, in an effort to break up the holdups occurring in that section and which said crimes the sheriff succeeded in eliminating. That during the absence of Sheriff Smalley on official business, the jail and prisoners were under the direct supervision and in charge of Charles A. Long, his under-sheriff.

IV

That the Surrogate's Court, County Clerk's Office, Court House, Board of Supervisors Chambers, Jail residence and jail constitute one row of buildings and are practically under one roof. On the easterly side of the jail is the jail yard and east of the jail yard and adjacent thereto is the Jail barn which is now used as a garage. That in front of these County Buildings and separated by a street in the village of Waterloo is located LaFayette Park, which is owned by the County of Seneca.

V

That during the summer of 1922 the following automobiles were at various times in the County garage adjacent to the Jail Yard, to wit: the automobile owned by the county of Seneca used by the Welfare Agent, Miss Cushing; a car used by the New York State Troopers and Sheriff Smalley's car. That on a number of occasions the automobile owned by the under-sheriff, Charles A. Long, was also in said building, as well as the automobile owned by the wife of one of the prisoners for a period of two days. That the prisoners confined in the Jail worked about the County Buildings, cleaning the same

under the direction of under-sheriff Long, who was also the janitor of said buildings, and under Long's direction the prisoners likewise mowed the lawns and took care of the yard about the County Buildings. That many of the prisoners were in and about the jail barn or garage during the day and in the evening at which time they were supposed to be working on the automobiles located in said barn or garage.

VI

The charges will now be considered in the order in which they are set forth by the Complainant.

Charge No. 1 is as follows:

"I. That in violation of the laws of the state of New York, he permitted one Harry Bakenhaster, a prisoner lawfully in his custody, for a period of at least four months ending with a discharge of the said prisoner on the 15th day of August, 1922, to occupy a private room in the living apartment of said sheriff, and permitted the wife of said prisoner to sleep in the said room with said prisoner at least four nights per month, instead of confining the said prisoner in the County Jail as required by law."

The record discloses that one, Harry Bakenhaster was committed to the Waterloo Jail of Seneca County on the 14th day of March, 1922, and discharged on the 15th day of August, 1922. That said Bakenhaster is now an employee of the Willard State Hospital, and at the time of his confinement in jail, did occupy a room in the sheriff's residence at times for the purpose of assisting in the work of the kitchen in the preparation of the meals for the prisoners and the Sheriff's family. That on one or two nights, the wife of the said prisoner did occupy his sleeping quarters with him, but that such occasions were without any knowledge or neglect of duty on the part of Sheriff Smalley, who did not learn of these acts on the part of the said prisoner until many months subsequent thereto.

I, therefore, recommend that charge No. 1 be dismissed.

VII

Charge No. 2 reads as follows:

"II. That in violation of Section 1697 of the Penal Code and other laws of the state of New York, he permitted one Harry Bakenhaster, a prisoner lawfully in his custody for a period of at least four months ending with the discharge of said prisoner on the 15th day of August, 1922, to go at large; keep an automobile and to drive said automobile to Geneva, Kendaia and divers places; to attend moving picture theatre performances at night with supper at restaurants after the theatre; to attend Ringling Brothers' Circus in Geneva, and fish along the banks of Seneca River and Cayuga Lake, and to remain out on divers occasions until approximately midnight, and to work for hire for a Mrs. Page on a farm in the township of Junius; to work for hire for one Wallace Cook in the Township of Fayette and to work for the Seneca County Agricultural Society of Waterloo, N. Y."

It appeared from the testimony that Harry Bakenhaster attended a moving picture performance and ate at a restaurant at Waterloo on one occasion with another prisoner by the name of Girth but that such occurrence was without the knowledge, permission or neglect on the part of Sheriff Smalley, as no proof was offered to show that he was in the village of Waterloo at the time of such occurrences. It was also shown that Bakenhaster did on one occasion drive his wife's automobile in company with deputy sheriff, Bertha E. Smalley, and the Sheriff's aunt, Mary L. Porter, to Kendaia for the purpose of purchasing potatoes for use in feeding prisoners. In view of the fact that a deputy sheriff was along, I do not consider this a violation of law in any way.

It was shown that under-sheriff Long gave permission to Bakenhaster to attend Ringling Brothers' Circus in Geneva, New York, without any knowledge, consent or permission of Sheriff Smalley.

Bakenhaster was permitted to work for one Wallace Cook, whose farm is located about three miles from the Jail, during the time when an insane person was brought to the Waterloo Jail and guarded by a former Deputy Sheriff of Seneca County by the name of Turk, who was an employee of said Cook, and whose place on the Cook farm was taken by Bakenhaster until this emergency was passed, when the patient was taken to Willard State Hospital at Willard, New York.

I, therefore, recommend that the charges set forth in No. 2 be dismissed.

VIII

The next charge to be considered is No. 3, which reads as follows:

"III. That in violation of Section 1697 of the Penal Code and other laws of the State of New York, he permitted one Walter Alison, a prisoner lawfully in his custody on charges of grand larceny and burglary, and now confined in the Elmira Reformatory at Elmira, N. Y., for a period of at least four months ending on or about the 15th day of August, 1922, to go at large daily and attend moving picture theatre performances at night; to have suppers at restaurants after the theatre, and fish along the banks of Seneca River and Cayuga Lake; to work for hire for a Mrs. Page in the township of Junius; to work for hire in the soap factory of Herman Brehm at Waterloo, N. Y., and to work for hire for the Seneca County Agricultural Society at Waterloo, N. Y., and to remain outside the county jail often until as late as approximately midnight."

Walter Alison, a prisoner now confined in the Elmira Reformatory at Elmira, N. Y., on conviction of grand larceny and forgery, was brought to Waterloo and sworn as a witness and he testified that he had worked for hire for one Herman Brehm at Waterloo, N. Y., unloading a car load of coal, and had worked for the Seneca Agricultural Society at Waterloo and for a Mrs. Page. However, there was no evidence offered showing that Sheriff Smalley had any knowl-

edge or information regarding this, and these alleged violations took place during the day when under-sheriff Long was in charge of the said jail. The only testimony offered in connection with prisoner Alison was that of the prisoner himself, as neither Mrs. Page, Herman Brehm, nor any officer of the Seneca County Agricultural Society was sworn to substantiate the testimony of Alison. Therefore it is recommended that Charge No. III be dismissed.

IX

The Fourth Charge filed is as follows:

“IV. That in violation of Section 1697 of the Penal Code and other laws of the state of New York, he permitted one John Lowe, a prisoner lawfully in his custody on charges of grand larceny and burglary for a period of at least four months, ending on or about the fifteenth day of August, 1922, to go at large; to attend moving picture theatre performances; to have suppers at restaurants after the theatre; to work as a laborer for hire in the soap works of Herman Brehm at Waterloo, N. Y., and to work for other persons and at other places, his place of employment most distant from the jail being on the farm of Chester Swarthout in the town of Lodi about twenty-eight miles from the jail.”

It did appear that John Lowe, a prisoner against whom no indictment was returned, while an inmate of the Seneca County Jail was taken by Minor Smalley, a son of the sheriff, and without the sheriff's knowledge, to work for one Chester Swarthout in the town of Lodi on two successive days, and that the said Swarthout was the complainant against the said Lowe. That Lowe according to his uncorroborated testimony attended a motion picture theatre in the village of Waterloo, but such occurrence is not shown to have been with the knowledge or consent of Sheriff Smalley. Therefore it is recommended that the allegations set forth in Charge No. 4 be dismissed.

X

No. 5 is the next charge to be considered and it reads as follows:

"V. That in violation of Section 1697 of the Penal Code and other laws of the state of New York, he permitted Rhinehart or Robert Gerth, a prisoner lawfully in his custody on charges of grand larceny and burglary for a period of at least four months ending on or about the 15th day of August, 1922, to go at large daily and attend moving picture theater performances at night; to have suppers at restaurants after the theater; to fish along the banks of the Seneca River and to work for hire as an automobile mechanic in the garage of Dodd & Collins at Waterloo, N. Y., and for divers persons; and that on several occasions late at night and approximately towards midnight, the wife of the said sheriff requested your complainant as under-sheriff to go up town in the village of Waterloo and find the aforesaid prisoners charged with burglary and grand larceny and induce them to return to the county jail to spend the night and that your complainant did so."

With no other proof, except the testimony of the two prisoners Girth and Alison, it appeared that on one occasion Girth attended a motion picture theater performance in Waterloo and ate at a restaurant, but without the knowledge or consent of the sheriff. It also appeared that on one occasion during the absence of the sheriff on official business in New York City, that when Mrs. Smalley locked up the prisoners for the night that she discovered prisoner Alison missing, that she tried to locate under-sheriff Long by telephone and otherwise but was unable to do so, that she called up the local police of Waterloo and while discussing the matter with the police, prisoner Alison returned to the jail and was locked in. It was testified to by Girth that he did some little automobile repair work for different people, but without the consent or knowledge of the sheriff, except that work which was done in the Jail garage. I, therefore, recommend the dismissal of Charge No. 5.

XI

The next to be considered is Charge No. 6.

“VI. That negligently and carelessly the said sheriff permitted the aforesaid Alison when under charges of burglary and grand larceny, and the aforesaid Bakenhaster, to carry the keys to the room where liquor was in the possession of the said sheriff and held in the possession of the said sheriff awaiting the further order of the court, and that the said prisoners did carry the said keys to the said liquor room in the summer of 1922, until a quart bottle which had been filled with whiskey and which bore the label similar to the other quart bottles of whiskey in the possession of the sheriff was found in the county barn empty and that thereupon the keys were taken from said prisoners.”

There was no evidence offered to substantiate the charges set forth above with reference to prisoners Alison and Bakenhaster carrying the keys to the room wherein liquor was stored held awaiting the further order of the court and therefore dismissal of Charge No. 6 is recommended. The only evidence with reference to liquor being near the jail barn was given by Edward Schreck of Waterloo, a newspaper man, which was in effect that under-sheriff Charles A. Long had liquor in the Jail garage and passed it around to Schreck and others.

XII

Charge No. 7 is as follows:

“VII. That on or about the 8th day of June, 1922, on which date there was a celebration at Waterloo of the Anniversary of General LaFayette’s visit to Waterloo, and a monument was to be unveiled in memory of General LaFayette, the aforesaid Bakenhaster and the aforesaid Alison, while both of them were prisoners and especially Alison under charges of burglary were provided with police badges and police clubs at the direction of the sheriff of Seneca County and directed to, and

actually did serve as special police officers to guard the LaFayette monument and to keep the crowd of people away from said monument before it was unveiled."

From the record it appears that prisoners Bakenhaster and Alison did have on badges and carry clubs at the celebration of the anniversary of General LaFayette's visit to Waterloo, when a monument was unveiled to the memory of General LaFayette, which said monument is located about two hundred feet distant from the front of the County Buildings and the Sheriff's residence. On the day in question the exercises were in charge of the Masonic Lodge of Waterloo, and Sheriff Smalley was the Marshal of the parade. At this time the Jail was under the direction and supervision of under-sheriff Charles A. Long. Neither the clubs nor the badges were given by Sheriff Smalley to the prisoners, nor does the evidence show that such acts were at the suggestion or with the consent of the sheriff. I therefore recommend the dismissal of Charge No. 7.

XIII

The next Charge, No. 8, is as follows:

"VIII. That on or about the first day of September, 1922, the sheriff of Seneca County so negligently and carelessly confined his prisoners and guarded the liquor which was in his possession for use as evidence that one Cassius Stafford, lawfully in the custody of the sheriff serving a sentence for the violation of the New York State Liquor Law, and at least three other prisoners obtained from the liquor which was kept by the sheriff for use as evidence one bottle of anisette, two gallons of hard cider and twelve bottles of home brewed beer, which the said prisoners drank in the county buildings and from the effects of drinking which, the said prisoners became intoxicated."

The only evidence offered to substantiate Charge No. 8 was that given by Cassius Stafford, who was committed in

the fall of 1922, and while acting as fireman at the Jail discovered at the bottom of a wood pile which he had been gradually using up during the first fifty or sixty days of his confinement, a bottle containing a liquid which after the said prisoner had drunk caused him to be confined in the Infirmary of the Jail for a period of about two weeks. This bottle had no label on it and was covered with dust and dirt when the prisoner found the same. This bottle was not kept as evidence and furthermore no evidence was offered to show that the sheriff had any knowledge of it being secreted in the wood pile which was located in a room adjacent to the boiler and to the room in which wood alcohol was used for fumigating the clothing of prisoners when first brought to Jail. No evidence was offered as to the bottle of anisette, two gallons of hard cider or twelve bottles of home brewed beer. I recommend the dismissal of Charge No. 8.

XIV

The Ninth Charge of the Complainant is as follows:

"IX. That in violation of Section 1697 of the Penal Code and other laws of the state of New York, the said sheriff permitted one William Durham, a prisoner lawfully in his custody to go at large, and permitted the said prisoner to go over to the town of Fayette in Seneca County to perform work of painting buildings and that said prisoner escaped and failed to return to the county jail and complete his sentence in the said county jail."

As no evidence was offered in support of the foregoing Charge, a dismissal of it is therefore recommended.

XV

The Tenth and last Charge is as follows:

"X. That he has been negligent and has failed to perform the duty imposed upon him by law in that he has had in his possession for a period of at least eight months, information charging various persons with vio-

lating the New York State Liquor Law ; said information being in the form of affidavits of persons claiming to have purchased liquor and that he has failed to apprehend, arrest and prosecute the persons committing such violations, and has failed and neglected to obtain search warrants and to take the steps necessary to suppress such violations of the law."

No evidence was offered to show or substantiate the charge that Sheriff Smalley had neglected to perform his duty with reference to any violation of the New York State Liquor Law, or any other violation of law, and I therefore recommend that Charge No. 10 be dismissed.

XVI

Considerable testimony was offered which tended to prove that the Complainant Charles A. Long and Clifford L. Beare, after Smalley was elected sheriff and before actually taking up his duties as such, were dissatisfied with Smalley because he would not accede to their wishes, and that on one occasion Beare spoke to the Chairman of the Republican County Committee about having Smalley removed for some violation of the Election Law and a Republican appointed in his place. Neither Long nor Beare took the stand to deny these statements. Therefore we have at the outset of Sheriff Smalley's administration, his under-sheriff, Long, and his adviser, Beare, apparently friendly to the sheriff, but secretly disgruntled and displeased with the turn of events. It is within the bounds of reason that if Smalley had removed himself and family to the southern end of the county and left the northern end to the complainant Long and his friend Beare, these charges never would have been filed.

The County Clerk, Deputy County Clerk, District Attorney and County Judge of Seneca County, all Republicans, the opposite political faith of Sheriff Smalley, took the witness stand in his behalf and testified as to his good character, his standing as a man and a citizen, and also as to his all around efficiency as sheriff. Likewise, Dr. Robert M. Elliott, Super-

intendent of the Willard State Hospital, and a large number of other prominent and responsible citizens of Seneca County gave testimony to the effect that Sheriff Smalley bore the best of reputation and even now was held in high regard in the sections of Seneca County from whence they came. The Sheriff of Ontario County and Lieutenant Pease of the New York Central Police Force, both of whom have had business with Sheriff Smalley in his official capacity, testified that they found the sheriff unusually accommodating and very efficient in the matters turned over to him.

XVII

In Conclusion, taking into consideration all the evidence and the surrounding circumstances, I believe the people of Seneca County very generally have the utmost confidence in Sheriff Smalley, and in my opinion the best interests of the People of that County will be served by the retention of Burt E. Smalley in the office of Sheriff and a dismissal of all the charges fled against him.

Respectfully submitted,

(Signed) J. HERBERT GILROY,
Commissioner.

Order Dismissing Charges

*In the Matter of Charges against Burt E. Smalley, Sheriff of
the County of Seneca.*

ALBANY, November 3, 1823.

Charges having been presented by Charles A. Long against Burt E. Smalley, Sheriff of the County of Seneca, and the said Burt E. Smalley having made answer thereto, and J. Herbert Gilroy, having been appointed by me a Commissioner to take evidence as to the truth of said charges, and to make a report, and the said Commissioner having taken the evidence and having made his report recommending the said charges be dismissed;

NOW, THEREFORE, After consideration of said charges and the evidence presented pertinent thereto, and the report of the

Commissioner recommending the dismissal thereof, the said charges upon the said report of the Commissioner are hereby dismissed.

(Signed) ALFRED E. SMITH.

In the Matter of the examination and investigation of the management and affairs of the Department of Public Works.

Appointment of Commissioner

STATE OF NEW YORK — EXECUTIVE CHAMBER

TO ALL TO WHOM THESE PRESENTS SHALL
COME, GREETING:

Know Ye, That pursuant to Section 8 of the Executive Law, I have appointed, and by these presents do appoint JOSEPH A. KELLOGG, of Glens Falls, N. Y., as a special commissioner, to examine and investigate the management and affairs of the Department of Public Works.

The said Joseph A. Kellogg is hereby empowered to subpoena and enforce the attendance of witnesses; to administer oaths and examine witnesses under oath and to require the production of any books or papers deemed relevant or material.

And I hereby give and grant unto said Joseph A. Kellogg, all and singular the powers and authorities which may be given or granted unto a person appointed by me for such purpose, under authority of the statute aforesaid.

IN WITNESS WHEREOF, I have subscribed my name to these Presents and caused the Privy Seal of the
[L. S.] State to be affixed hereto at the Capitol in the City of Albany this second day of October in the year of our Lord one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

Preliminary Report of Commissioner

October 20, 1923.

*To HONORABLE ALFRED E. SMITH, Governor of the State of
New York, Albany, N. Y.*

Dear Sir:

Having on the 2nd day of October, 1923, been commissioned by Your Excellency under the provisions of section 8 of the Executive Law to examine and investigate the management and affairs of the Department of Public Works, and having forthwith thereafter entered upon the discharge of my duties as such Commissioner, and it appearing to my satisfaction, from evidence taken upon hearings already held and pending further progress in the discharge of my duties as such Commissioner, that I should advise you of certain facts which already have developed which, in my opinion, require action at this time to protect the interests of the State, I submit the following preliminary report:

It was developed early in the investigation that substantial sums of money had been paid for materials purchased by the Department of Public Works in excess of the fair value thereof.

Prominent in this regard were purchases made from a co-partnership firm located in the City of Albany and known as the General Mill & Contractors Supply Company. This firm is composed of Edward L. Swasey, residing at 316 First Street, Albany, N. Y., who owned a four-fifths interest therein, and Reynolds K. Townsend, residing at 2 Park Place, Albany, N. Y., who owned a one-fifth interest therein. The office of this company was located at 899 Broadway in the City of Albany. It is not a manufacturer, but merely a jobber in various supplies used by the State. It was originally organized under the name of the General Mill Supply Company, and filed its certificate in the office of the County Clerk of the County of Albany on the 20th day of January, 1922, under the provisions of section 440 of the penal law. This name was subsequently changed to the General Mill & Contractors Supply Company.

No certificate of this change, however, was filed in the County Clerk's office.

Mr. Swasey, who was the managing partner, had in previous years furnished supplies to the State as a representative of other concerns. This particular co-partnership commenced such business with the Department of Public Works early in 1922. The supplies so furnished have been paid for out of the fund allowed to the Superintendent of Public Works by section 153 of the Canal Law. Bills, rendered from time to time, passed through the Department of Public Works, were perfunctorily examined by various officials and clerks there, and checks were ultimately issued therefor signed by the auditor of the Department and the Superintendent of Public Works or his deputy. When, by reason of the depletion of the fund in the hands of the Superintendent of Public Works, additional moneys were required, abstracts were submitted to the State Comptroller showing payments from the fund, and that official reimbursed the Superintendent of Public Works to the extent of the expenditures.

Dealings between the Department of Public Works and the General Mill & Contractors Supply Company had advanced to such an extent that by June 8, 1922, the first abstract and accompanying vouchers for payments made to that company by the Superintendent of Public Works reached the Comptroller's office. From that time to the end of the year 1922 eighty-six of such abstracts, some of them including several vouchers of payments to that company and some of the vouchers covering two or more bills, were forwarded to the Comptroller's office for supplies purchased by the Superintendent of Public Works and paid by him out of the fund referred to. The practice of purchasing from this company continued during the present year, in which period two hundred and fifteen different abstracts with accompanying vouchers for supplies purchased from that company were similarly forwarded to the Comptroller's office. Each of these abstracts, transmitted by the Superintendent of Public Works to the Comptroller, when reimbursement out of the fund in his hands was desired, contained a certificate to the effect, among other things, that the prices for materials were fair and reasonable. These certificates were signed in

1922 by Superintendent Charles L. Cadle and in 1923, some by Superintendent Edward S. Walsh and some by Deputy Superintendent James E. Doyle, until the consolidation of the various departments in the present State Department of Public Works, pursuant to chapter 867 of the Laws of 1923, after which time all such abstracts were certified by Edward S. Walsh as Commissioner of Canals and Waterways.

At the outset of the investigation, two very striking facts appeared in connection with the transactions of the Department of Public Works with this firm:

First, the large proportion of the business of this nature transacted by this concern and the large quantities of supplies furnished to the various divisions of the canal, some of them at places removed over two hundred miles from the jobbing office of this concern in the City of Albany;

Second, the exorbitant prices paid for materials.

The responsibility for ordering so large a proportion of the supplies, stated on the first examination of the Deputy Superintendent of Public Works to have reached two-thirds of the total amount of supplies of this nature procured for the State, and amounting certainly to a very substantial portion of such supplies, is shifted by the various employees of said Department from one to the other. Suffice it to say at this time that the proportion of such supplies procured from this one firm reached such a volume that some time in August, 1923, it attracted the attention of the Superintendent of Public Works himself, and he ordered his deputy to make a more extensive distribution of purchases. This order was made in the latter part of August, a short time preceding the accession of Frederick Stuart Greene to the position of Superintendent of Public Works under the Consolidation Act of 1923.

There seems to have been no sufficient reason whatever suggested from any quarter justifying the purchase from this jobbing concern of supplies in large volume, many of which could have been purchased much more advantageously from the manufacturers or producers thereof. It is important in this connection, however, only by reason of the fact that it throws a side light on the more important questions in-

volved, and naturally excites wonder as to what, if any, inducements were offered to State officials to make purchases of material to such an extent from a concern of this character.

The great profitableness of the business of this firm is indicated by the testimony of Mr. Townsend, who stated that for his one-fifth interest in the firm at its organization in January, 1922, he invested only \$100.00, whereas in its report to the Bradstreet agency in July, 1923, it showed a net amount of assets over all liabilities of \$33,930.61, showing an enormous percentage of profit on the capital invested, in addition to all sums of money that may have been withdrawn by the partners in the meantime.

The important fact, however, developed in connection with this concern, which, in my judgment, requires action and for which reason among others, I am making this report at this time, arises from the very extortionate prices charged and paid, and paid under circumstances which, in my opinion, permit the State to recover the same. For such recovery, the vendor being a copartnership, both partners would be individually liable.

I feel that there is no immediate danger of the continuation of this practice, because, immediately upon assuming the duties of his office, Superintendent Greene reorganized the financial management of the Department, so that through a central officer appointed for that purpose all supplies are to be obtained, and bills therefor approved before payment. This arrangement, although perhaps temporary pending such more permanent reorganization of the Bureau of Canals as may be deemed necessary, for the present protects the State from further loss of this nature.

I wish to call your attention to certain instances of excessive payments which are striking, but which by no means are exhaustive of the subject, and which are only presented in this connection as typical of what is shown to have been transpiring.

(1) On May 10, 1923, a 1½ Kilowatt Electric Gasoline Motor Generator was sold by the General Mill & Contractors Supply Company to the State, and charged for at the sum of \$960.00. This generator had been purchased a few days

before from Fairbanks, Morse & Co., of 30 Church Street, New York City, for \$435.00 and the only service rendered by the General Mill & Contractors Supply Company in connection with the generator was to order the same from the manufacturer and direct its shipment to the Department of Public Works at Amsterdam, its point of delivery. This piece of machinery was an article which had been generally sold for ten years last past known as the "Home Light Plant," and could have been purchased by any dealer or by the State or Federal government for \$435.00. It is nationally advertised, and the retail advertised price was only \$560.00. The advertisements of this concern are carried in prominent magazines, including The Saturday Evening Post, and catalogues are issued to the trade showing the prices of this machine with the other products of the manufacturer. A representative of Fairbanks, Morse & Co. testified that he called at the office of the Department of Public Works some time in September, 1923, and on being told that the Purchasing Agent was out of town, he asked the person in the office of whom he was inquiring if it was absolutely necessary for the State to purchase these supplies from the General Mill & Contractors Supply Company, and was told that it was. On asking why, he was told that there was a contract existing between that company and the State Department of Public Works to furnish equipment. No such contract, of course, is in existence or could legally be made.

(2) On July 1, 1923, the General Mill & Contractors Supply Company furnished to the Department of Public Works, delivered at Albion, N. Y., two hundred and thirty miles from Albany, a Schramm Air-Compressor, for which was paid the sum of \$850.00. This article was advertised in public catalogues circulated to the trade by the manufacturer to be sold for the sum of \$550.00. The manufacturer had agents in our principal cities, and the article was sold by such agents to purchasers at 10% off the list price, or for the sum of \$495.00, which sum included the commission of the agent.

(3) On August 4, 1923, the General Mill & Contractors Supply Company furnished to the Department of Public Works at Waterford, 14 60-foot lengths of $\frac{1}{2}$ -inch chain for buoys, at \$67.20 per length, amounting to \$940.80. These chains

were purchased from the manufacturer, The J. V. Carr-Woodhouse Company of Troy, on July 31, 1923, for \$18.50 a hundred pounds. The manufacturer, Mr. Woodhouse, stated that they weighed about 2.85 pounds a foot, or about 170 pounds for each length. This would make the cost of each length of chain to the General Mill & Contractors Supply Company \$31.45, for which the State paid \$67.20 per length. Actual laboratory tests of the chain, however, show that it weighed only 2.6 pounds per foot, which would make its cost about 10% less than as above computed. In addition, it is indicated by the evidence that chains of this high quality were not required to adequately anchor the buoys, and that such anchorage could be amply secured by an ordinary chain which could have been purchased for \$9.60 per length as against the \$67.20 paid.

(4) On July 15, 1923, the General Mill & Contractors Supply Company sold to the State and was paid for 840 feet of special handmade dredge chain at \$1.12 per foot, delivered at Cohoes, amounting to \$940.80. This could have been purchased in Albany for 52c a foot, which would have resulted in a saving to the State of 60c a foot, amounting in all to \$504.00, less the cost of transportation from Albany to Cohoes.

(5) In addition to the articles just enumerated of substantial value, quantities of ordinary staple articles were purchased from the General Mill & Contractors Supply Company and paid for by the State at prices largely in excess of their market values at the time, for which, in many instances, they could have been purchased by any prospective customer over the counters of local hardware dealers. Some of these instances are as follows:

	Prices paid	Market price
Round Iron	\$.07	\$.03½
Manila rope.....	.26	.19
Wiping cloths .....	.34	.15½
White waste.....	.24	.07 to .17½
Steel wire rope.....	.26	.1235
Lufkin tapes	7.50	Not to 3.75
Pipe wrenches	12.16	exceed 5.40
Oakum .....	.14	.10 best quality
Spikes .....	.15	.04½

There is, of course, no excuse for the payment of these excessive prices for ordinary staple articles, purchasable at any time from local dealers by any person.

In the Department there seems to have existed an elaborate system of checking and marking of bills, but no one has appeared who has assumed responsibility for the fixing of the prices, either at the outset of the transactions or at the time of the audit of the bills. The various employees and officials in the Department seem to rest upon each other, claiming to have supposed the other had approved the amounts to be paid.

The Deputy Superintendent, who was placed in charge of such matters, made no inquiries as to the prices other than that he claims to have inquired of Chief Inspector Castor as to whether the prices were proper. Castor denies even this limited inquiry. Whatever inquiry was made, if any, it is apparent was utterly inadequate to prevent the mulcting of the State treasury. The waste from this cause, as has been previously stated, has been checked by the reorganization of the Department under Superintendent Greene, and if desired I may later have some suggestions to make as to the permanent organization of the Department, in order to prevent a recurrence of such practices.

The activities of the General Mill & Contractors Supply Company were not limited to dealings directly with the State. It also furnished supplies to the dredging contractors. Under these contracts the State assumed to pay, in addition to a per diem rental, all costs of operation, both labor and material, and to make all necessary repairs during the operation. The superintendent of the dredge "Empire State," which seems to have been the largest dredge in the service, testified that over 75 per cent. of its supplies were furnished by the General Mill & Contractors Supply Company. The prices paid for supplies range in the same excessive proportion as hereinbefore indicated as to materials furnished directly to the State.

In addition, I find that the State is charged for the installation in the dredging plant, new, of a Model Neptune 12-15 HP engine, the sum of \$1,045.00. This engine took the place of one that was worn out while the dredge was in the service of the State. Its predecessor had been used on heavy work for four or five years, and it is claimed by the dredging company

that under the contract, providing that the State shall make all repairs and make good all damages, a replacement of this nature, giving the equipment a new article in place of an old one, nearly worn out, at the expense of the State, is justified.

I am of the opinion that the contract will bear no such interpretation; that under a proper interpretation of its provisions, the equipment at the end of the service shall be in substantially the same condition as when it entered such service, reasonable wear and tear thereof excepted, and that the ordinary repairs to keep the equipment in such condition is as far as the obligation of the State extends. Otherwise, we would have the remarkable situation that a contractor, entering upon the service with any portion of his equipment nearly worn out, as in the instant case, would be financially interested, in so far as possible, in putting such equipment out of commission, demanding its replacement new by the State, and thus retiring from the State service with a substantially new plant. An interpretation of the contract so manifestly unreasonable is not required by any of its provisions.

The voucher containing this item of \$1,045.00 also contained a duplicate bill of \$191.66 for oil skin coats and pumps which had already been paid to the dredging company on a previous voucher. This latter voucher has not been paid. It amounts to \$18,111.36. It contains, in addition to the items for the engine and the duplicate bill, excessive charges for other items, and the payment of this bill should be withheld in order to protect the State to that extent from depletion of its treasury by these improper and illegal charges, and to reimburse it to that extent for improper payments already made to that company.

So far as I have been as yet able to develop the evidence from the witnesses, all bills presented by the General Mill & Contractors Supply Company to the dredging company were approved without examination as to prices, and passed the Department of Public Works without any investigation whatever.

The amount of the price seems not to have been a matter of interest to the dredging company, as it was to be paid by the State.

There also are bills unpaid, rendered by the General Mill & Contractors Supply Company directly to the State, to the amount of about \$5,000.00. I took the liberty, during the pendency of the hearings, to request the present auditor of the Department of Public Works to withhold payment of this sum now claimed as well as the unpaid claim of the dredging company, in order that to that extent the State treasury might be saved from improper disbursement of public funds.

The total amount of the bills of the General Mill & Contractors Supply Company, including sales to the dredging contractors, paid for by the State, aggregated during the current year about \$93,000.00, of which \$88,000.00 has been paid. The evidence indicates that at least \$30,000.00 of this was in excess of the proper and fair price for the materials.

To each of the bills submitted by the General Mill & Contractors Supply Company to the State, including all those bills for which it has received payment, there was appended an affidavit, as required by section 12 of the State Finance Law. I here insert a copy of one of these affidavits, typical of all of them:

"STATE OF NEW YORK } ss:
County of Albany }

Edward L. Swasey, of the firm of Gen'l Mill & C. S. Co. of Albany, in the county of Albany, being duly sworn, saith that all the items in the annexed account *are* correct, and accrued at the dates respectively as stated therein; *that no part of the same, or any item therein, is charged at more than its fair value; that it is a just claim against the State of New York to the amount of Nine hundred forty and 80/100 Dollars* specified therein, that no part thereof hath been included in any former bill rendered against the State, that there are no legal or equitable offsets against the same, that the same, or any part thereof, hath not been paid to this deponent, or any other person, or by or in behalf of said State, to the knowledge, information or belief of this deponent; that this deponent is the lawful owner of such account and entitled to the payment thereof. And further, that all the labor charged therein has been applied

upon the works and to the benefit of the State, and that all the property charged therein has been delivered to the duly authorized agents of the State, and according to the best of the knowledge, information and belief of this deponent, used for the benefit of the State, by or under the direction of one of the authorized agents thereof; that no commissions, presents or profits have been paid by him or any person in his behalf, or agreed to be paid in the future by him or by any person or friend for him.

Subscribed and sworn to before me
this 9th day of Aug., 1923.

EDWARD L. SWASEY.

H. M. HULSAPPLE,
Notary Public.

Under this direct representation, these bills were paid. In my opinion, the excessive sums charged can be recovered, and I believe the testimony and the exhibits in this proceeding should be submitted to the Attorney General in order that such action may be brought. In the meantime, the amounts claimed both by the General Mill & Contractors Supply Company and the Empire State Dredging Company should remain unpaid. It is not as yet established to my satisfaction that the amount illegally paid to the Dredging Company exceeds the amount to which it is entitled on its unpaid bills. I do not, therefore, at this time recommend the institution of any action against that Company.

Another course of action proper upon the discovery of payments of extortionate prices upon bills verified as above stated, containing express declaration that "all the items in the annexed account are correct" and "that no part of the same or any item therein is charged at more than its fair value" and that it is a just claim against the State of New York to the amount charged, is suggested by the attitude of Mr. Swasey himself when called as a witness in this proceeding. Being called as such witness, it naturally would be supposed that if, as a business man of the City of Albany, he had supplied materials at fair prices and under circumstances which admitted of explanation, he would have been glad to avail himself of

the privilege of so stating. On the contrary, at the very outset, after testifying to not much more than his age, name and place of residence, he immediately threw himself under the protection of the provisions of the Federal and State Constitutions providing that no person shall be a witness against himself, and refused to answer questions or to produce his books upon the ground that it might incriminate him. The colloquy that ensued with his counsel indicated that the crime which he feared might be charged was bribery, and section 381 of the Penal Law, in regard to immunity of persons who have offered bribes, was referred to in the course of the discussion. When a suggestion is thus made, in the course of a proceeding, by a witness called for the purpose of examining into transactions which should be fair and open, that a crime has been committed, it is probably the duty of those cognizant of the occurrence to call it to the attention of the officers charged with the duty of enforcing the criminal law. I submit for your consideration whether such action should not be forthwith taken.

Mr. Swasey went still further and denied possession of the books to his partner, Mr. Townsend, who displayed a willingness to produce them for examination in this proceeding.

The papers upon their face would seem to indicate most conclusively that several provisions of the Penal Law have been violated by the submission of these sworn bills and by the receipt of payment thereunder of these excessive prices.

Section 1872 of the Penal Law provides as follows:

“Fraudulently presenting bills or claims to public officers for payment.

A person who, knowingly, with intent to defraud, presents, for audit, or allowance, or for payment, to any officer or board of officers of the state, or of any county, town, city or village, authorized to audit, or allow, or to pay bills, claims or charges, any false or fraudulent claim, bill, account, writing or voucher, or any bill, account or demand, containing false or fraudulent charges, items or claims, is guilty of a felony.”

Section 1620 of the Penal Law, in regard to perjury, provides as follows:

“ Perjury.

A person who swears or affirms that he will truly testify, declare, depose, or certify, or that any testimony, declaration, deposition, certificate, affidavit or other writing by him subscribed, is true, in an action, or a special proceeding, or upon any hearing, or inquiry, or on any occasion in which an oath is required by law, or is necessary for the prosecution or defense of a private right, or for the ends of public justice, or may lawfully be administered, and who in such action or proceeding, or on such hearing, inquiry or other occasion, wilfully and knowingly testifies, declares, deposes, or certifies falsely, in any material matter, or states in his testimony, declaration, deposition, affidavit, or certificate, any material matter to be true which he knows to be false, is guilty of perjury.”

Section 1621 of the Penal Law provides as follows:

“ Irregularities in the mode of administering oaths no defense.

It is no defense to a prosecution for perjury that an oath was administered or taken in an irregular manner.

The term ‘oath,’ includes an affirmation, and every other mode authorized by law of attesting the truth of that which is stated.”

I quote the last section because there was some indication in the evidence that oaths were frequently irregularly administered by the notary assuming to perform that service in the Department of Public Works.

There has been introduced as yet in the proceeding no evidence of bribery. Mr. Swasey, who was active in this transaction, placing himself upon his constitutional privilege, has closed the door to obtaining any aid from his testimony, and unless he or some other person involved in a transaction of that nature, if such transaction there be, shall see fit to disclose it, it is probable that proof will not be available sufficient to warrant a prosecution for that offense.

The felony, however, of making a fraudulent claim, and the perjury accompanying the verification of such a claim, appear to have been committed repeatedly in all the cases where extortionate and unexplainably high prices were paid for materials, some of which have been above detailed.

It is difficult to understand why so large a percentage of the goods furnished upon the line of the canal, much of it at points far remote from its office, should be purchased from this obscure firm in the City of Albany at such extortionate prices, unless something more than the grossest kind of negligence contributed to such misappropriation of the State funds. It is barely possible, however, that the inattention of the State employees was so marked, their misapprehension of proper prices so pronounced, and their vigilance to protect the State so entirely wanting, that these payments may have slipped by all of them without any criminal intention to defraud. The red tape provided in the Department was certainly ample and the number of persons who should have passed upon the bills was sufficiently great, if any one of them had felt responsibility for the discharge of the obviously important duty of ascertaining whether proper prices were paid. There seems to be no one who assumed such responsibility except the general oversight of the whole transaction of purchasing supplies, a duty which is conceded by the former Deputy Superintendent of Public Works, now Deputy Commissioner of Canals and Waterways, to have rested upon him.

The only employee of the Department up to date who will assume responsibility for any of the failures of the so-called system to work, is one of the checkers, who states that he passed certain vouchers that had not been properly previously approved by certain of the State officials whose approval should have been obtained before the vouchers were passed, and who also failed to note in a certain instance that there was no notarial certificate attached to the affidavit of verification of the bill.

At the very best it must be conceded that the machinery of the Department, established for the protection of the State against excessive charges, has failed to function, and that the

organization for that purpose is permeated with a deepening and spreading dry rot.

If it be possible that there has been no corruption of State employee or official, there still remains the fact that the papers, upon their face, clearly indicate the commission of the crimes of fraudulently presenting claims to public officers and of perjury.

There has been brought to light in this investigation an entirely distinct series of transactions which have caused me at this time to submit this preliminary report. They grow out of the purchase of certain floating equipment in the year 1922.

On April 9, 1922, the then Superintendent of Public Works accepted an offer which had been previously made by Mr. W. H. Wilms, of 523 Richmond Avenue, Buffalo, N. Y., for the sale of two tugs known as the "Progresso" and the "James B. Stewart," and for a dredge known as the "Fort Plain." In this letter of acceptance occurs a provision in regard to the tug "James B. Stewart," that one of the conditions of the acceptance is the duty on the part of the vendor "to fit out the tug and to put her in shape ready for service." The condition in regard to the dredge is as follows: "Dredge to be fitted out and put in a first class operating condition ready to go to work before final acceptance by me."

The tug "James B. Stewart" was not delivered, but it appears from a communication to the State Comptroller from the Superintendent of Public Works dated May 31, 1922, that the tug known as "Reliable No. 1" was substituted in the place of the "James B. Stewart" and "under the same conditions as set forth in the previous letter on the subject."

Notwithstanding these provisions as to the condition of the dredge and the tug, neither of them was in good condition or ready for operation. The dredge was purchased against the advice of the inspector of dredges. It had been sunk in salt water and most of the piping below the water line was corroded and in very bad condition. Her boom was rotted out, the spuds of the boat were practically decayed, it was necessary to reinforce her housing all through, put new pipes in her hull to take care of the steam pipes, and reinforce the deck and the underpinning under her engine.

The cost to the State for necessary repairs on this craft in 1922 was \$10,165.90. She was able to do some little work in 1922, but on account of her condition, very little; and at the end of the season additional repairs had to be put upon her in order to place her in working order to the amount of \$10,-480.40.

The tug "Reliable No. 1" was in equally bad condition. Her steel hull was in such condition that a person pressing his foot against it could make an indentation. The amount of repairs necessarily expended by the State in order to place her in good condition was, in 1922, \$4,111.96, and in 1923, \$4,688.-33; and, in addition, a watch had to be kept on board in order to prevent her from sinking because of a hole in her side, in December of 1922, at a cost of \$401.24. The full purchase price of the dredge, \$30,000.00, and that of the tug, \$17,-500.00, were paid by the State under the contract requiring that they should be delivered in good condition, ready to go to work. The vendor failed to perform his contract in this regard, and expenditures necessarily incurred in consequence of said breach can be recovered.

On April 1, 1922, the then Superintendent of Public Works accepted an offer from H. W. Benkart of Lafayette Square Building, Buffalo, N. Y., for the sale of the tug "Niagara." The offer stated the tug "is in first class condition." The full purchase price thereof, \$20,000.00, was paid by the State. Notwithstanding this provision of the contract, it appeared shortly after the purchase of the tug that the boiler was unserviceable. It was kept in use during the navigation season of 1922 only by frequent welding, and had to be replaced during the end of the season by a new boiler at a cost to the State of \$4,698.00. The cost of taking out the old boiler and putting in the new one, with other asbestos fittings and that sort of thing, was \$1,266.13, making the entire cost of the new boiler \$5,964.13. For the amounts of these expenditures I believe the vendor is liable, for the same reason as stated in connection with the other floating equipment, and I recommend that action to recover the same be brought.

Various other inquiries have been initiated in regard to the management and affairs of the Department of Public

Works under your commission. Some of them are incomplete, and none of them, in my judgment, at this time requires immediate action. Other lines of inquiry have been suggested and may be pursued, and I shall desire at the proper time and after a proper development of the inquiry to submit further reports.

Summary of Preliminary Report

I therefore recommend at this time the following:

1. That payment of all sums of money claimed by the General Mill and Contractors Supply Company and by the Empire State Dredging Company be withheld.

2. That action be brought to recover from the General Mill and Contractors Supply Company all excessive charges which have been paid to such company.

3. That action be brought against Walter H. Wilms for expenditures necessarily incurred by the State in placing the dredge "Fort Plain" in good condition and ready for service, and also for all expenditures upon the tug boat "Reliable No. 1" necessary to put that craft in good condition.

4. That action be brought against H. W. Benkart for all expenditures necessarily incurred by the State to place the tug boat "Niagara" in first class condition.

5. That Your Excellency consider with the District Attorney of the County of Albany the propriety of instituting criminal proceedings for fraudulently presenting bills for payment and for perjury in verification thereof, and for the prosecution of any other crimes that may develop in the course of such proceedings.

Respectfully submitted,

(Signed) JOSEPH A. KELLOGG,
Commissioner

NOTE: The Governor transmitted a copy of the foregoing report to the Attorney General and the District Attorney of Albany County, requesting that such action be taken as may be deemed necessary.

Report of the District Attorney
DISTRICT ATTORNEY'S OFFICE
ALBANY COUNTY, ALBANY, N. Y.

December 4, 1923.

HON. ALFRED E. SMITH, *Governor of the State of New York,*
Executive Chamber, Capitol, Albany, N. Y.

DEAR GOVERNOR SMITH—On October 25, 1923, I received from your secretary, Hon. George R. Van Namee, the preliminary report of Hon. Joseph A. Kellogg, the Commissioner appointed by the Governor under the Moreland Act to examine into and investigate alleged irregularities in the State Department of Public Works, submitted to the Governor on October 20th, 1923, as Commissioner Kellogg has suggested that possibly the evidence taken in these proceedings disclosed some crime that had been committed in the County of Albany which should be brought to the attention of the District Attorney.

My examination into the matter was interfered with and held up for some time by other matters including the trial of a murder action which necessarily took precedence over this investigation. I have, however, now finished this preliminary report and have also made a thorough examination of the evidence taken before Commissioner Kellogg and in addition thereto have examined several witnesses.

The Commissioner, on page three of his report, calls particular attention to certain instances of excessive payments and I devoted a more lengthy examination into the first four instances which he emphasizes. The first two items, namely the Home Light Outfit, obtained from the Fairbanks-Morse Company, and the Schramm Air Compressor, seem to be particularly important because in these instances it was possible to check up what the General Mill & Supply Company had paid for these articles and compare the price they paid with the price they demanded from the State for the same articles. While there might be room for dispute among experts as to the fair market value, the quality considered, of other articles fur-

nished, there could be no dispute as to the margin of profit claimed for these two articles. The manila rope and the chains furnished by the General Mill & Supply Company to the State present debatable points because I found some witnesses who would testify that if they had been selling the same articles to the State the price they would have charged would have approached much closer to the price charged by the General Mill & Supply Company than was admitted by any of the witnesses called before Commissioner Kellogg.

From my examination of the evidence produced before Commissioner Kellogg, I was unable to find any evidence that any of the State officials or employees were implicated in any crime with the General Mill & Supply Company. The evidence disclosed carelessness and inefficiency and lack of attention to important details of business that was almost shocking, but there is no evidence that has been brought before me that any of these officials acted in criminal collusion or conspiracy with the General Mill & Supply Company or with the manager of said Company, Mr. Swasey.

Several of these officials are open to grave suspicion but so far as I can see the only person who can produce evidence that these officials were implicated in a crime, would be Mr. Swasey himself, and naturally Mr. Swasey will not implicate either himself or others in a crime unless he is compelled to. The only way in which the said compulsion could be exercised would be by instilling into the mind of Mr. Swasey the conviction that he himself was in danger of being sent to prison for a crime and that he would save himself from a portion at least of his imprisonment by making a complete confession.

The fact that Mr. Swasey was able to obtain from the State exorbitant charges for articles which he sold to it, and that he sent in bills stating that the price of these articles was a fair price whereas the amount charged was most unreasonable, does not constitute a crime as held by the Supreme Court in the case of *The People against King*, 15 Appellate Division 84.

None of this money could be obtained by Swasey except by filing a voucher and each voucher was presumed to be and had the appearance of being verified. I have checked up on

the vouchers for the first four articles mentioned by Commissioner Kellogg and already referred to.

Voucher Exhibit No. 67 for a motor generator obtained from the Fairbanks-Morse Company was subscribed to by Mr. Swasey in the presence of A. J. Scanlon, special agent of the State Department of Public Works. At the bottom of this and to the left are the words "Subscribed and sworn to before me" etc. Under this Mr. Scanlon attached his name as special agent. Scanlon was authorized by a special provision of the Canal Law to administer oaths and it was his duty to see that the subscriber swore that the statement subscribed to was true before Mr. Scanlon attached his own name as special agent. Mr. Scanlon informed me, however, that Mr. Swasey did not swear to this voucher in his presence; that he merely signed it and Scanlon attached his name thereto assuming that the act of the two constituted swearing, but as a matter of law no affidavit was taken and consequently Swasey cannot be prosecuted for perjury on the basis of this voucher, Exhibit No. 67.

Instance No. 2, to which the Commissioner called attention was the sale of one No. 20 Schramm Air Compressor, complete with tank and truck, Order No. 10,756, price \$850.00. The voucher for this was Exhibit No. 42 and was signed by Edward L. Swasey on July 28, 1923, in the presence of Mary McMahan who was a Commissioner of Deeds in the city of Albany. I have interviewed her and she stated that such vouchers were executed by Swasey on many occasions in her presence; that on only one of these occasions did he actually swear to them; that at all other times he would merely hand them over to her with his name attached and tell her to sign her name and that she has no recollection of this particular voucher and will not be able to swear that any affidavit was taken by Swasey, so that this voucher could form no basis for prosecution for perjury.

Instance No. 3 and Instance No. 4 based on voucher Exhibit No. 41 and Voucher Exhibit No. 61, are for chain furnished by the General Mill & Supply Company to the State. Voucher No. 41 was for chain to be used for buoys, the price of which was \$940.00. From the people I have talked with I understand that there is no such thing as a buoy or dredge chain.

Chains are supplied by dealers which the customers may use for this purpose but the trade does not furnish the article as a chain for this specific purpose. It is merely a chain of certain dimensions and quality. I have come to the conclusion that there may be quite a difference in opinion among experts as to the actual value of such chains as were furnished to the State at the time they were purchased from the General Mill & Supply Company. I apprehend that some dealers might be found who would testify that such chains would cost almost as much as the General Mill & Supply Company charged for the chains they sold to the State and that any discrepancy that might exist between the price charged by this Company and the price charged by other dealers would be so slight as to hardly justify a jury in convicting Swasey upon the ground that his sworn statement, that the price charged for these articles was a fair price, was utterly false and untrue. The vouchers, however, for these chains seem to have been properly verified before H. M. Hulsapple as a Notary Public. At any rate I have in my possession an affidavit signed by Hulsapple in which he states that it was his invariable practice to ask the people presenting vouchers to swear that the statement signed by them was true and that because of this practice he knew that Swasey must have actually taken the oath at the time that this verification was made, although Hulsapple does not recall the instance relative to the execution of either of these vouchers.

It is possible that the Grand Jury might find sufficient evidence to indict Swasey for perjury in filing false affidavits that the prices charged for these chains were fair and reasonable and it is possible that convictions might be had upon the trial of such indictments. I do not feel, however, particularly confident about it. There is no such certainty of proof as there would be if we could produce the person who actually sold these chains to the General Mill & Supply Company and show quite a difference in price between what they charged Swasey and what he charged the State. While Mr. Woodhouse swore that his company sold chains somewhat similar to the General Mill & Supply Company, yet he cannot positively identify the chains, of which he was shown a sample, as one of those sold by him to this Company. Lacking such evidence the only thing

we could prove would be what the trade generally considered a fair market value for such chains.

With such a questionable case to present to the Grand Jury, I doubt extremely the expediency of presenting to the Grand Jury any case growing out of this investigation. So much publicity has been given to the investigation and so strong an impression has been created in the public mind that vast sums of money were taken from the State either improperly or criminally, that the presentation of a case as weak as I have described this and involving perhaps relatively small profits for the dealer would make the investigation itself appear to have accomplished but scant results. It might be better policy to blame palpable carelessness and negligence on the State officials who handled this business for the loss of so much money by the State rather than to charge a crime and allow all the State officials to escape while the dealer is sought to be held on the charge of perjury for a comparatively minor transaction.

I do not mean to suggest that expediency should prevent the presentation of a proper case to the Grand Jury. But I do hesitate to present to it a case so weak that I fear no conviction would follow. The attorney for the defense would call the jury's attention to the charge that vast sums had been stolen from the State and compare this with the indictment for perjury because the price of these chains was too high, and then show how the evidence itself made the fairness of the price a debatable matter. And I apprehend that the case would be laughed out of court.

I shall be very glad to receive your further suggestions in this matter.

Respectfully yours,

(Signed) CHARLES J. HERRICK,
District Attorney, Albany County.

Final Report of Commissioner

December 24, 1923.

*To His Excellency, HONORABLE ALFRED E. SMITH, Governor
of the State of New York:*

DEAR SIR:—On the 20th of October, 1923, I had the honor to submit a preliminary report of proceedings as Commissioner appointed by Your Excellency under section 8 of the Executive Law to examine into and investigate the management and affairs of the Department of Public Works of the State of New York.

That report was submitted soon after my appointment for the reason that it appeared from evidence then already taken that certain action was required to protect the interests of the State by way of withholding certain sums of money claimed by corporations which furnished supplies to the State, and of instituting proceedings to protect its interests. It was almost entirely limited to the consideration of those matters as to which action was urged.

Since that time further hearings have been had.

I now beg leave to submit the following further report, which will conclude my activities in the matter, unless further developments arise which may indicate to you the propriety of further examination along specific lines.

By chapter 867 of the Laws of 1923, which took effect July first of this year, the previous Departments of Public Works, Highways and Public Buildings were consolidated into a single department to be known as the Department of Public Works, with the three Bureaus of Canals, Highways and Public Buildings. These bureaus, generally speaking succeeded to the powers and duties of the old Departments of Public Works, Highways and Public Buildings, respectively.

When the hearings were well progressed, I endeavored to give general notice, through the press, that I would be glad to take the evidence of any witness volunteering the same on any subject pertinent to the inquiry. Notwithstanding this notice, none of the gentlemen whose names had been connected with

the inquiry thereafter saw fit to present himself and make any denial of or statement in relation to evidence previously elicited.

Reiteration of Previous Recommendations

At the outset it may be well to state that the further hearings in the matter have emphasized the importance of adhering to the procedure indicated in my former report. Further investigation has confirmed the importance and propriety of the recommendations previously made.

Conditions General in the Bureau of Canals

The lamentable conditions existing in this bureau, which was formerly known as the Department of Public Works, were somewhat at length treated in my former report. The large volume of business done with the General Mill and Contractors Supply Company, the grossly excessive prices paid for machinery whose actual price and value were well known to the trade and for staple articles readily purchased from dealers at well-established prices, pointed to a condition of affairs almost unbelievable. That a great department of a great State should be so at the mercy of predatory dealers in materials was not only pitiable, but was tragic, and it was entirely inexcusable.

There has been no proof developed of actual corruption. Some of the transactions, however, it is difficult to understand unless we assume a sinister motive on the part of some State official or employee. It is hard to reconcile such transactions simply by an assertion of incompetency and inefficiency, however gross. The complete lack of acquaintance with the duties of their respective offices, asserted by certain of the former incumbents, is difficult to believe. The ability of this General Mill and Contractors Supply Company to obtain these grossly exaggerated prices, if we eliminate the thought of corruption, can be explained only by the concession of utter blindness of various officials and employees in the bureau to their manifest duty.

The former Superintendent of Public Works attempts to remove himself from all responsibility in the matter by stating that at the outset of his term the duty of ordering supplies

was delegated by him to the Deputy Superintendent Mr. James E. Doyle, and that thereafter he had nothing to do with the matter, although he frequently certified to the correctness of bills and signed checks for the payment of supplies, but that he did this relying upon his belief that his deputy had properly discharged his duty in connection with the matter.

It would seem, however, that whoever by his signature and written approval places a claim in such position that moneys will be paid from the State Treasury to the claimant, owes a duty further than that of a mere mechanical action of writing his signature upon a piece of paper. It is by virtue of his signature that the money is paid out, and the statements which are attested by that signature are supposed to be true to the knowledge, or at least to the belief, grounded upon some authentic information, of the certifying officer. The former Superintendent's entire unfamiliarity with the business transacted in his office is quite clearly shown by his testimony in regard to these transactions, where he testified in relation to the checks signed by him in payment for these supplies as follows:

"Q. Didn't the comptroller's approval come long after you had made the check? A. Oh, no; never.

"Q. You mean he approved each of these before you made the check? A. Certainly; I hope I never signed a check that hadn't been seen by the comptroller; if I did I didn't know it."

(Page 346 of minutes, lines 20-24.)

And again:

"Q. You mean when these (the bills) are bunched together and become substantial items, as in this case of \$18,000.00, that the comptroller has something to do with that before you approve of it? A. Before I sign the check.

* * * * *

"Q. And this particular one which I have in my hand, you think all of these items were gone over and checked by the comptroller, or should have been? A. That is my understanding.

"Q. That is your understanding of the procedure?

A. That is my understanding of the procedure; always has been my understanding."

(Page 347 of minutes, lines 15-18;
page 347, line 24 to page 348, line 4.)

And again:

"Q. You think it (the abstract) had been to the comptroller's office before you signed the check? A. I certainly always thought so, positively. * * *"

(Page 349, l. 18-20.)

The statements of the Superintendent thus recorded were to the effect, in substance, that he relied upon the belief that the bills had, in some form, been approved by the comptroller.

As matter of fact the Superintendent, under section 153 of the Canal Law, was allowed what was called an "impress fund" of not to exceed \$150,000.00 which was paid to him by the comptroller and deposited in an account subject to the Superintendent's check in the New York State National Bank and checks for the payment of supplies were drawn against this fund and paid therefrom without any audit or consideration of the bills by the comptroller whatsoever. After the bills had been paid they were forwarded to the Comptroller's office, attached to abstracts, and each of these abstracts bore a certificate, signed by the Superintendent or his deputy, stating among other things that the *prices of both the labor and materials were fair and reasonable*, and upon the filing of these abstracts with these certifications showing that the sums of money had been disbursed, the comptroller made good the expenditures by advancing to the Superintendent a sum equal to the expenditures to restore the fund to its former state. Many of these abstracts so certified by the Superintendent or his deputy contained from one to sixteen vouchers for supplies furnished by the General Mill and Contractors Supply Company. Eighteen of these abstracts were certified by Superintendent Walsh himself, forty-six by Mr. Doyle, his deputy, and thirty-six by Superintendent Cadle, his predecessor in office.

I called the Superintendent's attention to the law and to the practice on the subject, and the following questions and answers appear upon the minutes:

"Q. And the evidence in the proceeding as I take it, as it now stands on the record, is that that fund is paid out by these checks—I think your Auditor so testified—and that neither the bills nor the abstracts nor any documents in connection with them go to the Comptroller's office until such time comes as that fund, becoming low, you desire reimbursement for the moneys paid out, and that that is the first time the Comptroller gets in touch with these bills. Now, is that wrong? A. I guess that is the method; yes, sir.

"So that the Comptroller don't come in contact with these bills paid out of the revolving fund until you want reimbursement and the fund gets low and you want it stocked up again. Isn't that so? A. Yes, sir; I think so.

"Q. That is right? A. I think so; but what I had in mind, that abstracts do go to the Comptroller's office.

"Q. Yes, but after the checks have been paid, when you want to make your fund good again. A. My impression has always been we sent them first to the comptroller to release that money so that we can pay these bills; certainly my impression is that these bills went to the comptroller's office before we could release the money. That's the way I have always thought.

"Q. You have meant to say that some one in comptroller's office, you thought, had to approve these bills as to prices before you signed the check? A. I did think so.

"Q. Don't you know that that isn't true, that that isn't quite right? A. I think that is so."

(Page 350, line 4, to page 351, line 5.)

It is apparent that, until his attention was called in the course of his investigation to the true conditions, the Superintendent claimed to believe that the bills, for which he gave

checks on this impress fund subject to his order, had been previously audited by the comptroller. This misapprehension existed in his mind after nearly two years of previous incumbency of the office and nearly eight months' service therein during the present year.

The failure of the Superintendent to check the series of excessive payments made to the General Mill and Contractors Supply Company, inaugurated during the administration of his predecessor in office, was due, in part at least, he asserts, to his belief that the bills had been approved by the comptroller's office; a belief held in entire ignorance of the procedure in handling the State funds paid out for materials furnished in the operation of the canals.

The disavowal by the Superintendent of personal knowledge of the transactions, relying upon the alertness of his deputy and the imaginary audit of the comptroller, is somewhat shaken, upon the face of the papers at least, by what happened in regard to the order for certain chains for buoys in the summer of this year, which will be hereinafter considered.

The subordinates in the Department who had to do with the purchase of and payment for supplies, including these excessive payments under consideration, were Deputy Superintendent Doyle; Henry Castor, Electrical Inspector; Harry M. Hulsapple, Chief of the Bureau of Finance and Accounts; Elbert L. Kemp, Voucher and Record Clerk; George W. Ruso, Clerk, and William E. Cole, Assistant and Acting Auditor.

J. William Grady, Assistant Deputy Superintendent, denied emphatically that he had anything to do with the purchase of supplies. Yet it appeared from certain letters offered in evidence that he had interested himself in the activities of the General Mill and Contractors' Supply Company and other parties dealing with the State. The intimate connection between Grady and the General Mill and Contractors' Supply Company is shown by his letter of September 1, 1923, in which he calls their attention to the fact that a bid submitted by it for machine tools to be used in the Waterford shop was not made out on the basis of price for each separate article,

as were the other bids, and he gave it an opportunity to revise its quotation in the matter. In other words, after the bids had been opened and the other bids read this company was given an opportunity to revise its bid if it so desired.

Furthermore, the intimacy of connection between Grady and the General Mill and Contractors' Supply Company is shown by the fact that Grady advised his brother that there was a position open with that company, and the brother, making application for the position, was employed by the company as salesman in the district west of Amsterdam, and as a result of his connection with the company effectuated the large sales by the General Mill and Contractors' Supply Company to the Empire State Dredging Company, to be paid for by the State, at the exorbitant prices previously reported.

Miss Mary F. Connor states that as long as three or four months before the hearing on October 3d, Superintendent Walsh told her that Grady's brother was connected with the General Mill and Contractors' Supply Company.

There is much contradiction in the record between certain of these officials and employees as to responsibility for the volume of dealings with the General Mill and Contractors' Supply Company and the excessive prices paid to it for materials furnished. The first contact of the company with the department, it is conceded, came from the solicitation of business by Mr. Swasey, the General Manager of the General Mill and Contractors' Supply Company, from Mr. Castor; and during the year 1922 Mr. Castor admits that he was largely, at least, responsible for purchases made in the department. So that up to the first of January last, at least, the grossly excessive prices charged by this concern over the fair value of the articles furnished the State must be to some extent, at least, due to Mr. Castor's lack of alertness in failing to see that goods were ordered at proper prices, and that the requisitions issued therefor were limited to such prices.

Mr. Castor states that after the first of last January he was informed by Miss Connor, Secretary to Superintendent Walsh, and by Deputy Superintendent Doyle and Assistant Deputy Superintendent Grady, that firms from whom supplies were

to be purchased, and prices, were none of his business, and that pursuant to directions received thereafter he made up many requisitions on the General Mill and Contractors' Supply Company.

In purchasing the Schramm air compressor, which was sold to the State for \$850; but which could have been purchased from a local dealer for \$495, Castor says he was told by Doyle or Grady to order it from the General Mill and Contractors' Supply Company; that he called that company up on the telephone and asked them the price, which was fixed without any further inquiry.

On the other hand, Mr. Doyle claims that the large volume of purchases from the General Mill and Contractors' Supply Company was due to the fact that when he asked Castor why the Department bought so much stuff from this concern he was told that this company had the agency for about all of it and that even if the orders were given to anybody else in the vicinity the concern receiving such orders would probably have to apply to the General Mill and Contractors' Supply Company for the material. Castor denies having made this statement, and it is surprising that Doyle, after two years' previous experience near the head of the Department, and with his general knowledge as a business man, could have believed that this obscure concern controlled the supply of practically every class of material that was used on the canals, when the most casual inquiry or even the exercise of the slightest thought would have suggested the absurdity and impossibility of such a condition.

Mr. Doyle, having been entrusted with the duty of purchasing supplies, made no effort to protect the State in that regard, and relied entirely upon others, according to his own story. He signed practically everything that was presented to him, without examination or question. Thus concededly one of his important duties, to see that the State got the worth of its money, was not discharged. He never looked at a trade journal for prices; he never familiarized himself with prices except, as he states, occasionally he asked Castor and took his word for it; he did not know whether the generator which was purchased by the State was worth \$90 or \$900. As a

matter of fact, it was sold to the State for \$960, and could have been purchased for \$435 by the State or any dealer directly from the manufacturer, and was nationally advertised at that price in prominent magazines, including the *Saturday Evening Post*. He never ascertained the price of manila rope, largely used on the canals and a staple article largely sold and readily purchased. He did not know what the generator was used for, and stated that it was to operate a dam, whereas it was for the purpose of lighting a lock. He did not know when orders were issued in addition to the requisitions, or under what circumstances orders were issued.

On the first hearing he stated that two-thirds of the business of the Department went to the General Mill and Contractors' Supply Company. On a subsequent hearing he asked the privilege of changing his answer to make it read twenty per cent. This shows very strikingly his lack of knowledge of the detail of his office.

Mr. Doyle was entrusted with the duty of purchasing supplies and was expected to attend to that very important duty in the administration of the Department. His reason or excuse for not attending to it properly is twofold, first, that he was too busy about other matters, and second, that he relied on his subordinates and his approval was merely mechanical.

He informs me in a communication, to which reference will shortly be made, that he followed the same procedure during the two years of his previous incumbency of the office. He, of course, had no right to take this position and he should have given some personal attention to the discharge of this duty. He should have postponed or not have assumed the performance of less important duties, if they interfered with the careful protection of the State funds.

Superintendent Walsh testified that upon his attention being called, in the early part of September, to the large volume of supplies purchased from the General Mill and Contractors' Supply Company, he said to Doyle, "For Heaven's sake, do not do this thing any more; stop this ordering from the General Mill and Supply Company." Doyle replied, "My gracious, I don't care anything about the General Mill and Supply Company; I will stop it at once." (See page 39 of Minutes, lines 10-23.)

Notwithstanding this dramatic request made by the Superintendent and the ensuing promise by Doyle to reduce the volume of business done with the General Mill and Contractors' Supply Company, Miss Connor states that materials continued to be purchased in the same volume. After the Superintendent had instructed Doyle to diminish the volume of purchases from the General Mill and Contractors' Supply Company, and he had promised to do so, she further states that she again called Doyle's attention to the amount of such sales and that he told her not to worry about it. The attention of the Superintendent to the large volume of purchases from the General Mill and Contractors' Supply Company seems to have been aroused by the interposition of Miss Connor, who told him that she thought it was improper and that the business should be distributed. Her attention was called to the matter shortly after July first, previous to which time all letters and bills from this concern had been directed to the financial bureau and came to the attention of its chief, Mr. Hulsapple, and not to her attention. Mr. Hulsapple, the Chief of the Financial Bureau, was sufficiently intimate with Swasey to borrow money from him on several occasions, which he states was repaid.

Mr. Lane, the salesman of Fairbanks, Morse and Company, the manufacturers of the generator about which so much has been said, stated that when he called at the Department of Public Works in an attempt to do business with the State, he was informed by the person in the Department of whom he made inquiry that it was necessary that these supplies be purchased from the General Mill and Contractors' Supply Company, for the reason that there was a contract existing between that company and the Department of Public Works to furnish it with equipment.

On July 28, 1923, Mr. Kemp wrote to Mr. Edward J. Delaney, a Voucher and Property Clerk at the Middle Division at Syracuse, stating that Swasey had asked him to look up seven different bills to see if they had been paid; that due to a change in bookkeepers and having no bookkeeper at all, the company was uncertain as to whether they had been

paid or not, and Kemp undertook to get the information for him.

The foregoing instances, in a more or less striking manner, show the intimate connection between the General Mill and Contractors' Supply Company and the various employees of the Department.

The high prices paid to the General Mill and Contractors' Supply Company, however, did not always go unprotested in the Department. In one instance, at least, the payment of the high prices was insisted on by the Department officials after their attention had been called thereto, and under very condemning circumstances.

Thomas Conway, Assistant Superintendent of Public Works in charge of the Western Division, on receiving from the General Mill and Contractors' Supply Company in May, 1923, a bill for rope, wipers and waste, complained in writing to the company that the charges were all excessive. On receiving no reply, he wrote another letter, under date of June 6th, referring to his letter of May 24th and calling attention specifically to the improper and excessive prices charged for all three items, and also stating the prices charged for the same items by other firms. On June 12th he received from the General Mill and Contractors' Supply Company a reply, authorizing him to change the invoice to the prices which he had quoted as being the prices charged by other firms.

This resulted in the reduction of the price charged for the wipers from twenty-six cents a pound to twelve and a half cents; for the rope from twenty-nine cents a pound to twenty-two cents, and for the waste from twenty-four cents to sixteen and a half cents a pound.

On July 18th Conway received a letter signed by H. M. Hulsapple, financial clerk, stating that the company claimed that the order for these supplies were given in good faith at the prices charged and that the prices were O. K. This letter concludes with the statement, "We would like to get the bill settled as soon as possible, and as the explanation seems to be reasonable would like to have you reconsider it and place it in line for payment." This letter was signed, not by the superintendent or his deputy, but by H. M. Hulsapple, financial clerk. Mr. Hulsapple testified that Doyle wanted him

to write to Conway to that effect. The letter, however, is not signed by Doyle.

Here was a flagrant case. The company had charged for these articles a large percentage over and above the prices for which they could have been purchased from other concerns. In the case of the wipers the price was more than double that which Conway stated he had actually purchased the same articles for from a Buffalo concern. The company had acknowledged the justice of the criticism and had authorized the reduction of the bill. Yet, when it came to Albany, Hulsapple wrote Conway, as he says, by the direction of Doyle, to revise the bill and to restore the former high prices. Conway still protested and on June 20th wrote to Hulsapple directly, enclosing him a copy of his letter of June 6th to the General Mill and Contractors' Supply Company and the company's letter of June 12, requesting the changes to be made in the prices. Notwithstanding this, again, under date of August 23d, a letter is written bearing the typewritten signature of Edward S. Walsh, as Superintendent of Public Works, and thereunder, in handwriting, the signature of H. M. Hulsapple as financial clerk, stating that the General Mill and Contractors Supply Company had informed Mr. Doyle that the reason the company authorized the changes in the prices was that Conway had refused to pay the higher charges, and stating that as the order for the supplies had been given by the main office, they would like to have the bill go through as originally rendered; that he had had the bill approved by Mr. Spalding, who was a section superintendent.

Subsequent to the elicitation of this evidence, I communicated with Mr. Doyle, requesting his version of this transaction, and received the following statement in regard thereto:

"I had only one conversation with Mr. Hulsapple regarding disputed bills. I do not remember the exact date, but as I recall some time during the summer he came to me and said "Conway refuses to approve the bill for rope sent him."

"To which I replied, 'Why?'

"He said, 'He claims the price is too high.'

"I said, 'Is it?'

"He said, 'I don't know.'

"I said, 'Find out and get the matter straightened out.'

"Several weeks later he came to me and said he had straightened the matter out. I asked him how, and he said 'he had written to Conway and the matter had been satisfactorily adjusted.'

"I wish to go on record under oath as saying that on no other occasion were any disputed bills called to my attention. I never saw any letters from Mr. Conway in which he protested against the price of supplies or materials, and I was not aware that the matter had been taken up with Mr. Spalding."

Elbert L. Kemp, the voucher clerk, states that at as many as a dozen or fifteen times he called Mr. Hulsapple's attention to excessive prices charged in bills; that Hulsapple would go to the front office, which was occupied by Superintendent Walsh, Deputy Superintendent Doyle, Assistant Deputy Superintendent Grady and Inspector Castor, and would bring back the bills and say they were all right. Hulsapple corroborates this statement to the extent that this happened three or four times in connection with the General Mill and Contractors' Supply Company's bills, and he said that he took the matter up with Doyle on these occasions, and that Doyle said the bills were all right. Doyle's denial, just above quoted, covers this charge.

Purchase of Buoy Chains

In the summer of 1923 it became necessary to purchase chains to anchor the buoys in the Barge canal channel in Oneida lake. On June 29, 1923, Superintendent Walsh wrote to Assistant Superintendent Cawley, in charge of the middle division, asking him to direct Mr. Youmans, who was the supervisor on that division to come east with a State boat and secure the buoy equipment for Oneida lake. Among other things, he stated: "*I have placed an order locally for a sufficient amount of high-grade chain which will be ready by the time Mr. Youmans is ready to go back and he can take the same with him.*"

About the first of August Mr. Youmans did as directed. He came to Waterford, and among other articles found there and took away with him forty lengths of chain for buoys, each length sixty feet long. These forty lengths of chain had been purchased by the General Mill and Contractors' Supply Company from the J. B. Carr-Woodhouse Company at Troy, and were included in an invoice dated July 31, 1923. They were purchased at the price of \$31.45 a chain.

This chain was resold to the State at \$67.20 per chain, an advance above the price for which it could have been procured from the manufacturer at Troy, across the river from Waterford where it was delivered, of 113 per cent., and for many times the cost of a chain entirely adequate to serve the purpose, as has been previously stated in my preliminary report. It will be observed that Superintendent Walsh stated in this communication to Cawley, over his own signature, that "I have placed an order locally for a sufficient amount of high-grade chain." This is inconsistent with his statement that he never purchased any supplies from the General Mill and Contractors' Supply Company.

But another, and perhaps more important, feature of the situation is that he could not have legally made a contract of purchase to this extent without submitting the matter for approval to the Comptroller, the purchase price being in excess of \$1,000. Such approval is absolutely required by section 16 of the State Finance Law. The Superintendent knew, and all connected with the transaction must have known, that such consent was required.

In order to avoid the necessity of procuring such consent, an application for which should have instantly disclosed to the Comptroller's office the excessively exorbitant charges made for this chain, the device was employed of dividing the forty lengths of chain into three lots. Fourteen lengths, openly declared to be buoy chain, were included in a bill dated August 1st, at a price of \$67.20 per length (having cost \$31.45), or \$940.80. It will be noted that this just kept the lot under the thousand dollar limit; fifteen lengths at this price would have cost \$1,008. A bill was rendered, dated

July 15, 1923, for the same amount for 840 feet of special handmade dredge chain. This is fourteen lengths, of sixty feet each. The price is identical, and although it is described as "dredge chain," such chain would be available for use on buoys. The remaining twelve lengths appear in a bill, dated August 8, 1923, for "720 feet of special handmade dredge chain $\frac{1}{2}$." The price is 34 cents per pound, which is a minor fraction of a cent in excess of \$1.12 charged per foot for the other chain. It might be well to note in giving this price that the chains are stated to contain 3.3+ pounds per foot, although the manufacturer stated that they contained only 2.85 pounds per foot, and Superintendent Greene stated that on a laboratory test they contained only 2.6 pounds per foot.

Here, however, in these three lots, of fourteen and fourteen and twelve lengths, we have the forty lengths of chain, each sixty feet long, sold by the J. B. Carr-Woodhouse Company of Troy to the General Mill and Contractors' Supply Company and taken away from the Waterford shop by Mr. Youmans by the direction of the Superintendent of Public Works, who stated that he had ordered them locally.

The transaction was one and indivisible. It was not susceptible, under any fair construction of the State Finance Law, of being subdivided so as to evade a submission of the contract of purchase to the Comptroller. All parties to the transaction must have known this. There could have been no other purpose in subdividing the lot, and the manifest reason for it was to avoid the necessity of submitting the matter to the Comptroller and thus disclosing the exorbitant purchase price to the State. The elaborate attempt to disguise the transaction by in two instances calling it dredge chain and in one instance buoy chain; in one instance charging for it by the length, in another by the foot; and in the third by the weight, but all of it coming in the end to the same price, or within a small fraction of a cent thereof, and slightly varying dates of the bills shows a deliberate design to conceal the true nature of the transaction.

The vouchers for these different bills passed the Department of Public Works without any approval on their face,

aside from the initialing of the checker Kemp. The blank spaces provided on the forms for the signatures of the section superintendent, the division superintendent and the auditor remained blank. The bills were sworn to before Mr. Hulsapple.

It is, of course, possible that when Superintendent Walsh wrote to Assistant Superintendent Cawley that "I have placed an order locally for a sufficient amount of high-grade chain," he may have meant that he did it through subordinates.

But when the Superintendent read the letter over for signature, even if he had no preceding connection with the transaction, he must have known from his experience in canal matters, if he had any knowledge whatever of the prices of such materials, that it was at least very improbable that forty lengths of "high-grade chain," each sixty feet long, could be purchased for less than \$1,000 (the aggregate of three bills at the exorbitant prices charged was about \$2,700; the manufacturer's price was \$1,258), and he was certainly put upon inquiry as to whether the matter should not under the law have been submitted to the Comptroller, before he approved and assumed responsibility for the purchase.

We have here a case of a well-studied-out device to evade the positive requirement of the statute, enacted for the protection of the State, requiring contracts of purchase exceeding \$1,000 to be submitted to the Comptroller for approval. If the statement in the letter by the Superintendent that he himself had ordered the chain, either directly or indirectly, be true, he was acting in plain violation of law. At the very best, if he had nothing to do with the transaction before signing the letter, he was adding the sanction and prestige of his individual signature to a transaction plainly illegal, the illegality of which would have been apparent to him had he given the matter the slightest consideration.

The investigation of this transaction developed another laxity of practice in the department. In very few instances do the carbon letters on file carry the initials of the person who dictated the letter. This well-recognized custom of initialing correspondence, for the purpose of fixing the re-

sponsibility therefor, is prevalent in all well-organized business and professional offices. It was almost wholly neglected in this great department of the State, and was neglected in this instance. The only initials appearing on the carbon copy in the department's files are those of the stenographer.

In order to ascertain who was responsible for a letter, the original had to be obtained from the addressee. The letter bore the individual signature of Superintendent Walsh, and there is no subordinate official to whom the responsibility can be shifted in whole or in part.

Scows

In my preliminary report your attention was called to the purchase of certain equipment from Walter H. Wilms of Buffalo and it was recommended that an action be brought to recover damages for breach of contract, because it plainly appeared that the equipment, consisting of a dredge and a tug, were not in the condition in which they were contracted to be delivered.

The same is true as to four scows purchased from the same party in July, 1922. Under date of July 1, 1922, Mr. Wilms wrote to Superintendent Cadle that he had four scows at Camden which had been inspected by the Department on June 30th. He said "*These scows have been recently overhauled and for all practical purposes they are as good as new.*" Under date of July 17th Superintendent Cadle wrote to Wilms, accepting the offer. On the same day Superintendent Cadle wrote to the comptroller for approval of the proposal and stated that the scows "*have been inspected by this Department and are found to be entirely satisfactory,*" and that "*the scows above mentioned have been practically rebuilt by the present owner.*" The inspection by the Department, however, although referred to both in Wilms' and Superintendent Cadle's letters as having been made prior to the purchase, did not occur, so far as any records on file in the Department show, until after the purchase and the arrival of the scows at Waterford. An inspection was then made, and if an inspection had previously been made there could

have been no reason for one having been made at this time. The inspection was made by William H. Sickels, Jr., inspector of hulls, and he reported as follows: "As requested by you, I made an inspection of the dump scows at Matton's dry dock and found them in fair condition. Of course, they are old scows and will need repairing in the near future. However, I think there is a great deal of service in them yet."

On being called to the stand in this investigation, Sickels testified that "The scows had been recaulked. I found the timbers, fore and aft in a dilapidated condition, made a thorough inspection of them and found mostly all the timbers gone. Had to take the planks all off of them and put new timbers in them" (see pages 656 and 657 of the Minutes).

They were not in first-class condition; and they were not for all practical purposes as good as new, as represented by Wilms. The representations, on which the scows were purchased, and on the practical repetition of which by Superintendent Cadle the comptroller approved the purchase, were not true.

I think an action would lie to recover the damages for the difference between the value of the scows as they actually were and their value as they were represented. This action should be brought for the same reasons as previously stated in regard to the actions recommended with respect to the dredge and the tug boats.

Cranes

During 1921 and 1922 sixteen cranes of various types were purchased and placed at the various barge canal terminals at a cost of \$183,000. Not one of them has ever handled a pound of freight except the one at Troy, which has performed service which could have been performed as well as by some lighter, temporary and less expensive apparatus. The cranes with the tracks on which they move obstruct free access over the terminal wharves. Several of them, including those herein-after more particularly considered were steam cranes requiring the services of a licensed engineer to operate.

In addition to the fact that this expenditure of so large a sum of money for this purpose was wholly unnecessary, and has

brought and will bring no benefit to the State, we find figuring prominently in these transactions the same Walter H. Wilms who had sold to the State the dredge Fort Plain and the tugboat Reliable No. 1, and the four scows, none of which were as represented in the proposals. Wilms also dealt in second-hand cranes as well as second-hand tugboats, scows and barges. At least he was the intermediary who delivered that dilapidated floating equipment, and in the crane transactions very substantial sums were paid to him in excess of the amounts which he had expended in the purchase thereof. The cranes were purchased by him, as disclosed by the evidence from the United States government, which had used them in the construction of ships at Hog Island. Some time in April, 1922, the Department of Public Works had purchased directly from the United States government a 15-ton crane and had paid therefor the sum of \$6,500. It cost to transport it and put it in place the sum of \$2,285, making its total cost to the State \$8,785. Wilms apparently did not figure in this transaction and derived no profit therefrom. But the method was soon changed. Instead of buying directly from the government six 5-ton cranes were purchased from Wilms. The purchases were made by Superintendent Cadle with the approval of the Canal Board under section 7 of the Barge Canal Law, which permits contracts, where the estimated cost of the work and materials does not exceed \$10,000, to be awarded after an abridged period of advertising by circular letters and posters instead of by publication for four successive weeks in various newspapers throughout the State, as required for contracts in excess of that sum. The abridged period of advertising in this instance was ten days. The amount paid for each of these cranes was \$9,998, or \$2 less than the limit.

These six 5-ton cranes were purchased by Wilms from the United States Government at the following prices: The one at Mott Haven, \$4,666.66; the one at Troy, \$3,250; the one at Syracuse, \$4,666.66; the one at Oswego, \$3,250; the one at Buffalo, \$4,666.66; the one at the Erie Basin, \$4,300. The total cost of the six cranes to Mr. Wilms, therefore, was

\$24,799.98. Allowing for the transportation and erection of each of these 5-ton cranes the sum of \$2,500, a sum in excess of the actual cost to the State of transporting and erecting the 15-ton crane which it purchased direct from the Government, which cost was \$2,385, we have an added outside cost of transportation and erection of \$15,000, making in all \$39,799.98 for cranes for which Mr. Wilms received from the State \$59,998, Wilms making the somewhat handsome profit on the transaction of something over \$20,000 and over 50 per cent.

It would appear that in the exercise of good management these cranes could have been purchased, as was the previously acquired crane, directly from the United States Government, which desired to sell them, in the same manner as the 15-ton crane had been purchased in April, and the resultant substantial profit to Mr. Wilms could thus have been saved to the State.

In the matter of the cranes, however, there do not seem to exist the palpable breaches of contract and falsity of representation with regard to the condition of the material which exist in regard to the dredge, the tugboat and the scows previously considered. So far as anything has developed on this investigation, or has been suggested by it, there are no reasonable grounds for belief that an action to recover this excess profit can be maintained. It is merely a detail of extravagant waste of State funds by the purchase at excessive prices of cumbersome material, in many instances expensive to operate, which serves no useful purpose and which interferes with the full and free use of the barge canal terminals.

Empire State Dredging Company

Evidence adduced since the presentation of the preliminary report in this proceeding has further characterized the transactions underlying the bills rendered against the State by the Empire State Dredging Company for materials furnished to it and charged for at excessive prices by the General Mill and Contractors Supply Company.

Mr. Weiss, the superintendent of the dredge, states that 75 per cent of the supplies on this dredge were purchased from this company, located at Albany. It was operating at Oneida Lake, thirty-four miles from the larger city of Syracuse, where supplies were available, approximately one-fourth of the distance from Albany, where the supplies were procured. Intermediate the scene of operations and the base of supplies were the substantial cities of Utica and Schenectady and the somewhat smaller but enterprising and thriving cities of Rome and Amsterdam, and the numerous populous villages in the Mohawk Valley. Only a few miles away was the city of Oneida.

The question of why the dredging company should go so far afield for its ordinary supplies was somewhat of a mystery until it developed at a late hearing that the agent of the General Mill and Contractors Supply Company operating in that territory was none other than Mr. T. D. Grady, the brother of Assistant Deputy Superintendent J. William Grady. It has been noted that Mr. T. D. Grady obtained his position with the General Mill and Contractors Supply Company through information furnished him by his brother as to the possibility of employment with that concern. About the time the dredging company ceased operations, Mr. T. D. Grady's services were discontinued. He was unable to sell in his territory, which extended west from Amsterdam, because dealers preferred to purchase their supplies locally. The dredging company was apparently his only customer, but it was a large one, and a great volume of supplies was purchased by it at his solicitation as salesman of the General Mill and Contractors Supply Company.

Goods purchased by the dredging company were to be paid for at cost by the State. The dredging company was not interested in the price paid and made no effort to check up prices. Nobody knew or apparently cared what prices were paid. When the superintendent of the dredging company was on the stand, he stated that he knew of no one who checked the prices to ascertain their correctness in behalf of the

dredging company. He was given an opportunity to find such a person, if such a person existed, in the following colloquy:

"Q. If there is any such person who checked any of these prices on any of Swasey's bills at any time in your organization to find if they were correct, I would like to have him produced here at the next hearing. A. Yes, sir.

"Q. But if there is no such person, I don't care to examine them all to find that fact out—that is not interesting and it takes time—and if no such person appears here by your direction I will assume that you have made the inquiry and have found out that no such person exists. Is that entirely clear? A. Yes, sir; it is clear to me.

(Minutes, page 453, lines 13-22 incl.)"

No such person has been produced. Evidently no such person exists.

Neither in the Department of Public Works was there any one found who had any duty to check the excessive charges appearing on these bills. Not only was there no checking of prices, but there was no adequate means of determining whether a bill had been previously paid. In one instance, as has been previously noted, a bill, after having been once paid, was again presented for payment and passed the Department of Public Works without being detected and was ready for payment a second time had not the initiation of this proceeding caused a cessation of the practices prevailing.

The practice of entering into contracts for dredging at a certain *per diem* rental, plus expenses would seem to be bad and unbusiness like. This contract with the Empire State Dredging Company was one of several, and in all cases there was no incentive to the contractor to do effective or expeditious work. In fact, the more time he consumed the more he was paid, and the less he did the less strain there would be on his equipment. There was always the danger, too, of the development which actually occurred in the case of the

Empire State Dredging Company, of purchases of materials at highly excessive prices, and perhaps excessive purchases thereof beyond the actual needs. There was the further danger of a demand that if any part of the equipment went out of commission, a new unit must be added at the expense of the State, to replace the old notwithstanding the age or stage of depreciation of the part superseded. The contractor, therefore, had a direct pecuniary interest in these cases in rendering useless any nearly worn-out portion of his equipment and replacing them with parts entirely new.

Although as previously stated, I believe that these contracts are not susceptible of this construction, still it seems to be the claim, on the part at least of this contractor in question, whose president expressed surprise that there should be any question about his right in this regard, and whose contention in this regard was supported by the testimony of Superintendent Walsh.

Although rumors have come to me in the course of this investigation, by hearsay evidence only, that gross favoritism has been practiced in the awarding of these contracts, and that parties who were not *persona grata* with the authorities were unable to obtain such contracts, there is nothing in the evidence I have been able to assemble to substantiate this charge. There is, however, always this danger inherent in the system. It seems to me to be a bad one in many respects and should be superseded if possible by the ordinary form of contract providing for wet excavation, where necessary, at a price per cubic yard, after competitive bidding.

Reorganization of the Bureau of Canals Suggested

From the recital of the foregoing facts, in connection with those detailed in my preliminary report, to which reference is made, but a reiteration of which will be refrained from, it will not be deemed an over-statement to say that, so far as protecting the State from extravagant and useless expenditures and the payment of excessive prices, the Department of Public Works wholly failed to function.

An elaborate system of checking and signing of vouchers by various officials seems to have been adhered to, but they all claim to have signed or checked the vouchers because somebody else had done the same thing before them, or was relied upon to do the same thing afterwards. There is no admission on the part of any one as to the responsibility for the fixation of prices except that assumed by the Deputy Superintendent, which admission is coupled with the express assertion that by reason of the multiplicity of his other duties he was in accordance with the long established custom in the office compelled to rely upon his subordinates who manifestly did not attend to the matter.

It is important that the check which was placed on these methods, by the present efficient Superintendent, within a few days after he assumed the duties of his office, and which is preventing a repetition of the practices subversive of the State's interest, should of course be made permanent.

Every State official or employee connected with these transactions has been more or less to blame for the result. The best that can be said for any of them is that their conduct in this connection was due to gross carelessness or a stupid complacency in failing to discover and uproot methods, wasteful if not worse, that had grown up in the Department and were readily discoverable by any interested and inquiring executive.

The Superintendent and his deputy certainly were not justified in never making a proper effort to ascertain whether there was any adequate protection to the State in the disbursement of the large sums of money expended for supplies. The most casual scratching of the surface would at once have disclosed a condition which upon further investigation would have developed the facts and permitted the application of immediate remedies preventing their continuance.

The electrical inspector, who issued many of the requisitions for supplies at exorbitant prices, and the chief of the Bureau of Finance and Account, who noticed on several occasions the exorbitant prices and complained thereof to the deputy Superintendent, cannot be freed from blame on the theory that they were acting under the directions of their superiors or that

these transactions were "none of their business" and they should interest themselves no further. Receiving substantial salaries from the State, it was manifestly much of their business when they were surrounded by conditions which, at the very best, smelled of corruption, to disclose such conditions in quarters where they would be remedied. If the deputy Superintendent of Public Works refused to clean up the situation, the facts should have been presented to the head of the Department and if no action was taken by him, the facts should have been laid before the Governor of the State, who would speedily have remedied the situation.

Such action could not have endangered the position of these employees. The rendition of such a distinct public service would have marked them as faithful officials, and placed them in the line of receiving the commendation which they would have deserved.

A complete reorganization of the personnel of the department, except, perhaps, some of the minor strictly clerical positions, is necessary in order to build up a new organization, with a proper *esprit de corps* and desire to serve the State faithfully and economically to prevent the further excessive or improper expenditure of any of its funds.

It is unthinkable that so important a Department of the State, upon whose proper administration depends to a large extent the success of our great canal system which has contributed so much to our prosperity, and upon which that prosperity still depends, in no small degree, should be left in the hands of officials, high or low, wholly unappreciative of the importance of their duties and apparently without any intelligent desire to faithfully serve the State, and protect its treasury.

As the hearings progressed, and the evidence hereinbefore referred to was developed, it became manifest on all sides that very radical changes were necessary in the personnel of the Bureau of Canals. Such changes have been largely already accomplished in various ways. The suggestion as to a complete reorganization has, therefore, to some extent been already met.

The Department of Purchase was organized by Chapter 128 of the Laws of 1922 for the express purpose of providing, as stated in the title of the law, for the "central purchase of supplies." It is manifest that there should be some department or bureau of the State conversant with prices, conversant with the trend of markets, and alert to obtain for the State the same good opportunities of purchase which the officials of the private corporation struggle for. This was the purpose of this enactment of 1922. It has not yet been extended to the Department of Public Works. The Superintendent of Purchase, whose office was created under this act should, in my judgment be urged to use every effort to bring within the control of that department the purchase of materials and of all supplies used by the State, in all of its departments, including the Department under investigation. This is the express provision of the law, and it should be followed. Further delay should not be permitted. If, as is stated by the Superintendent of Purchase, delays have occurred by reason of the failure of the Bureau of Standards to properly standardize certain articles necessary to be purchased, that bureau should be directed to expedite its efforts and to take such action as may be necessary, if any, to bring all classes of goods within the operation of the central purchasing agency.

In the meantime, the Department of Public Works itself should place the responsibility for all purchases upon some single person who has the ability and full opportunity to meet such responsibility, and no system of approval by employees because others have approved, or are expected to approve, without any intelligent thought or vigilance on the part of the approver, should be further tolerated.

The prosecution of the various actions recommended in this and in the preliminary report may, in some cases, be followed by a failure to collect on account of the financial irresponsibility of the parties.

The Constitution of the State, Article 5, Section 3, provides in reference to the Superintendent of Public Works:

"He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof."

The Canal Law, Section 30, formerly provided, and the Public Works Law (Chapter 867 of the Laws of 1923), Section 5, now provides that such security shall be in the form of an official undertaking in the sum of \$50,000. The premium on this undertaking is paid by the State. The manifest purpose of the Constitution is to protect the State from loss of its funds through the wilful or negligent acts of the Superintendent of Public Works. To quote from a standard work: "It goes without saying that the sureties on official bonds are liable for negligence or malfeasance of their principal in the performance of acts which are done *virtute officii*" (29 Cyc. 1455).

If reimbursement of the State Treasury fails in the actions which I have recommended, on account of the inability to collect judgments recovered, I recommend that actions be brought against former Superintendents of Public Works Cadle and Walsh and their sureties for the losses during their respective administrations, due to their failure in the "faithful execution" of their office, by reason of the facts hereinbefore in detail set forth.

Another duty obviously remains to be discharged. In the preliminary report I called attention in detail to the various provisions of the Criminal Law, and particularly Section 1872 of the Penal Law, which had manifestly been violated in the fraudulent presentation of bills falsely verified. Pursuant to the recommendation contained in that report, the matter was considered by the District Attorney of the County of Albany, and he has advised you he does not see fit to institute criminal proceedings. I am not satisfied with this situation, and I do not feel that the matter should be allowed to rest here. Certainly when such large sums have been obtained by a long series of false vouchers, the matter should at least be submitted to the court. With all due respect for the learned District Attorney of Albany County, for whom I have a high regard, I believe that a prosecution should be instituted against Mr. Swasey. He himself manifestly believed that crime had been committed, because he took the express position when

called to the stand that he would not answer any material questions, as his testimony would tend to incriminate him.

The amounts obtained were largely in excess of established prices, and the transactions were numerous, involving over fifty distinct dealings in a period of less than fifteen months. All of the bills paid were accompanied by sworn vouchers containing the direct statement that no item was "charged at more than its fair value." The amount of the overcharges, according to the evidence, aggregated approximately \$30,000.

Section 1872 of the Penal Law is very explicit on the subject. I will here repeat it:

"Fraudulently presenting bills or claims to public officers for payment.

"A person who, knowingly, with intent to defraud, presents, for audit, or allowance, or for payment, to any officer or board of officers of the state, or of any county, town, city or village, authorized to audit, or allow, or to pay bills, claims of charges, any false or fraudulent claim, bill account writing or voucher, or any bill, account or demand, containing false or fraudulent charges, items or claims, is guilty of a felony."

I am quite well aware that there may be a large margin for difference of opinion as to prices of articles which have no fixed or ascertainable market value, and that in the expression of an opinion fairly entertained, although perhaps unreasonable, a party is not guilty of crime, and I am entirely willing to concede that as to such articles and in such cases the twilight zone may be broad, but it cannot exempt from criminal liability a party who deliberately, in scores of instances, submits bills for exorbitant prices of staple articles with standard values and of machines advertised nation-wide at fixed prices. There could be no innocence of intent in presenting bills in many of these instances for more than twice the fair value of the article.

It seems to me that morally and legally the intent to defraud, mentioned in the Penal Law, exists just as much in the presentation for audit of a bill in which the price of an article

is knowingly charged at more than twice its value, as in a case where a bill is presented for two articles where only one has been furnished. There is no distinction between the two cases in the effect or in the purpose or in the obliquity of the transaction.

The decision in the case of *People v. King*, 15 A. D. 84, cited by the learned District Attorney, is an authority in point. In that case the claim contained a single item, and had not been paid. The court held that where a claim was for a single item and was unliquidated no conviction could be had. The unanimous opinion of the court (the Appellate Division in the Second Department) was written by that eminent jurist, Justice Cullen, who afterwards attained the pinnacle of judicial preferment in this State and closed his distinguished career on the bench as Chief Judge of the Court of Appeals. He writes:

"If the computations made of the gross value of many items were purposely false and made for the purpose of deceit and obtaining an excessive price, this would undoubtedly constitute fraud."

The case now under consideration consisted of many items of excessive charges, extending over a substantial period and involving in the aggregate a large amount.

To paraphrase a statement once made:

One such occurrence might have been a mistake, two or three may have been coincidences, but over fifty must have "been made for the purpose of deceit and obtaining an excessive price," and, in the further words of Judge Cullen, "would undoubtedly constitute fraud."

If this were not the law, a dealer could obtain any price he could prevail upon a friendly or uninformed and uninquiring State official to pay for State supplies, if no actual corruption occurred, or if when such corruption occurred none of the parties involved saw fit to disclose it without any fear of criminal prosecution.

If this were not the law, the custom of years, requiring sworn vouchers as to fairness of prices for materials furnished the State is of no avail, however gross the misstatement

in that regard, or however long continued the practice of falsification; and the principle would prevail, so far as the criminal law was concerned, "Let him get who can and let him who can get hold." It was evidently to prevent just this very thing, among others, that Section 1872 of the Penal Law was enacted. It is not applicable where an honest mistake has been made or where there is room for a difference of honest opinion as to the fairness of the price. Where for many months, in many transactions, there has been a persistent submission and resubmission of vouchers grossly exorbitant, and apparently submitted with intent to defraud, the full duty of the State is not performed until that situation is presented to a criminal court for its adjudication.

Inasmuch as the learned District Attorney of Albany County has expressed his unwillingness to present this matter to the Grand Jury, a position from which no doubt he will not desire to recede, even under the added facts in regard to the presentation of false claims and the deliberate subdivision into lots of material not properly divisible, in order to avoid the necessity of bringing the matter to the attention of the Comptroller, I recommend that, pursuant to the provisions of Subdivision 2 of Section 62 of the Executive Law, you request the Attorney-General, in person or by one of his deputies, to conduct before the Grand Jury and any court in which such action may come, criminal action against Edward L. Swasey, for fraudulently presenting bills to public officials for payment, in violation of Section 1872, and for the prosecution of any other crimes that may develop in the course of such action.

Black Lake Bridge

As affecting the management and affairs of the Bureau of Highways in the Department of Public Works, my attention was called to the acquisition by the State of the property and franchises of the Black Lake Bridge Company.

The Black Lake Bridge Company was organized under article 9 of the Transportation Corporations Law by filing a certificate in the office of the Secretary of State February 6, 1901. The incorporators were Messrs. Ellery Colby, E. R.

Booth, T. H. Reddish, C. S. Mallory and F. E. Colby of Owego, N. Y. The duration of its corporate existence was placed at fifty years. Its capital was \$40,000, divided into 400 shares at \$100 each. The bridge is described in the certificate as a steel and iron structure with stone foundation to connect with what was known as "The Four Red Road." When constructed it connected the village of Edwardsville in the town of Morristown with the town of Macomb, in St. Lawrence county.

These five associates and Mr. L. D. Colby, also of Owego, each subscribed for fifty shares of the capital stock. Ninety-seven of the remaining shares were subsequently issued to local parties residing in the vicinity of the bridge and interested in the facilities which it might afford, each of them taking one share, with the exception of a few who took two shares each.

Mr. Ellery Colby was at its organization and still is the president of the bridge company, and seems to have been the moving spirit throughout. There is some discrepancy in the evidence as to the amount paid in cash by the original promoters of the bridge. The vice-president, Mr. Booth, however, testifies that they each paid \$2,300 for their 50 shares of the par value of \$100 each, or 46 per cent of the par value. In addition to the amount paid in on the capital stock for the construction of the bridge, it is stated by the president that the first earnings, up to \$2,750, were likewise expended. If the statement of the vice-president is correct, as I believe it to be, the original cost of the structure was, therefore, as follows:

\$2,300, contributed by each of the six original promoters	\$13,800 00
97 shares of stock, sold locally	9,700 00
Revenues of bridge, paid for construction	2,750 00
	<hr/>
	\$26,250 00
	<hr/>

In 1909 condemnation proceedings were commenced, under sections 263 and following of the Highway Law, for the

abolition of the toll bridge and for its acquisition as a part of the highway system, free of toll. The sections under which this proceeding was taken provided that the State should pay one-half of the cost, the county 35 per cent and the town 15 per cent. That proceeding resulted in the appointment of commissioners and an appraisal of the bridge at the sum of \$26,378.75, the amount varying very slightly from the cost of original construction, as above computed. The payment of this sum, for 35 per cent of which the county would have been liable, was resisted by the board of supervisors of St. Lawrence county. The proceeding was pressed by the bridge company through all the courts, being decided by the Appellate Division of the Supreme Court on September 11, 1912, as reported in 152 Appellate Division, 633; and by the Court of Appeals on March 18, 1913, as reported in 207 New York, 582. The bridge company, however, was unsuccessful, and the sale of the bridge in that proceeding fell through on account of the refusal of the board of supervisors of St. Lawrence county, which had initiated the proceeding, to consent to its acquisition at the price fixed.

By chapter 598 of the Laws of 1917 a new section was added to the Highway Law, providing for the acquisition of toll bridges at the sole expense of the State. The old sections 263 and following, under which the proceeding referred to had been taken, still remained in the law. The new section, 269, providing that the entire expense of the acquisition of a toll bridge might be met by the State was limited in its application to toll bridges constituting a part of a State route or forming a connecting link between two State routes mentioned in section 120 of the Highway Law. This did not apply to the Black Lake bridge. This bridge was not upon a State route, nor did it form a connecting link between two State routes, as described in the Highway Law.

At the legislative session of 1921 a bill was introduced by Senator Thayer, representing the district in which this bridge was located, to so amend this section 269 as to bring the Black Lake bridge within its provisions. Knowledge of this movement is denied by the principal owners of the bridge residing

at Owego. Their assertion is that it was taken without their knowledge and at the probable instigation of local stockholders or residents of the vicinity who desired at the place in question a bridge free from tolls. The bill, as originally drawn, extended the provisions of the section to any bridge constituting a connecting link "between a county highway and a town highway." It was undoubtedly thought that this would cover the Black Lake Bridge, and the bill in this form passed the Legislature and came to the Governor for his approval. The Governor's counsel, under date of March 16, 1921, wrote to the State Highway Commissioner asking for a statement of the views of his department on the bill. Under date of March 17, 1921, Mr. J. C. Finch, assuming to answer the inquiry of the Governor's counsel of the State Highway Commissioner, wrote in reply the following letter:

"STATE OF NEW YORK

"COMMISSION OF HIGHWAYS

ALBANY, *March 17, 1921*

"HON. C. TRACEY STAGG,
Counsel to the Governor,
Albany, N. Y.

Dear Sir:

"In reference to Senate Bill Int. No. 116, Pr. No. 501, introduced by Senator Thayer, entitled "An act to amend the highway law, in relation to the acquisition of certain toll bridges at the expense of the state," I find that after conference with Senator Thayer he intends today to withdraw this bill from the Governor for amendment as it fails to accomplish the purpose intended.

"Very respectfully yours,

"(Signed) J. C. FINCH,
"Acting Secretary."

It is apparent that the conference between Senator Thayer and Mr. Finch developed the fact that the bill in its then present form did not cover the Black Lake bridge, and there-

fore, as Mr. Finch stated, it failed "to accomplish the purpose intended." Although there was a "county" road extending to the end of the bridge on Macomb side, there was no "town" road at the Morristown end, so that the bill required correction. The bill was withdrawn and was amended so as to apply to any bridge constituting a connecting link "between a county highway heretofore improved and a county highway which is indicated for improvement on the map approved by chapter eighteen of the laws of nineteen hundred and twenty-one." The highway at the Morristown end of the bridge was included under the description "Edwardsville-Morristown" in the list of roads, improvement of which, as county highways, was authorized by chapter 18 of the Laws of 1921, which became a law on March 21 of that year, amending the Highway Law. This covered the Black Lake bridge. When this latter bill came before the Governor for consideration his counsel again communicated with the State Highway Commissioner, under date of April 11th, requesting his opinion on the bill in its amended form. This communication was also answered by Mr. Finch, as Acting Secretary, by a letter in which he stated that he favored the legislation and that the Commissioner recommended the approval of the measure. He stated also that there were only two toll bridges remaining in the State outside of the cities, and that they would have to be taken care of in accordance with this section of the Highway Law, if amended.

Mr. Finch did not name the two toll bridges, but he must have known that one of them was the Black Lake bridge. The other was a toll bridge at Smithboro, Tioga county.

These letters of Mr. Finch, when introduced in evidence, disclosed his activity in perfecting this legislation, although previous to their introduction he had denied any knowledge in regard thereto. The following excerpts from his testimony will disclose the vigor of his denial of any contact with legislation affecting the Black Lake bridge prior to the adoption by the board of supervisors of the resolution initiating the proceeding of acquire it, which occurred late in 1921:

"Q. You had something to do with this bridge prior to 1921 didn't you? You are speaking today of conferences

after the St. Lawrence County board of supervisors made and adopted their resolution? A. After their resolution was filed.

"Q. That is where your testimony commences? A. At the time of the filing of that resolution.

"Q. You had something to do with it before, did you not? A. No, sir; not that I remember of.

"Q. Weren't you interested in this bridge before that time? A. I was not; no, sir.

"Q. Didn't you know about any legislation in regard to it? A. *No, sir; I had nothing to do with the legislation.*

"Q. So that your contact with the Black Lake bridge commenced after the St. Lawrence County board of supervisors had adopted this resolution? A. *After the resolution was filed in the office of the secretary.*

(Minutes, page 563, line 22, to page 564, line 12, inclusive.)

And again, on page 566, line 23:

"Q. I want to be entirely fair with you, and I ask you once more — and I want you to think it over before you answer: *If you had anything to do with any legislation that preceded this appropriation or this action taken to estimate the value of the bridge concerning which you have testified this morning?* A. No, sir.

"Q. Did you know that a bill was introduced by Senator Thayer at the session of 1921 to amend section 269 of the Highway Law? A. I presume so.

Q. You knew it at the time? A. I think so.

Q. These matters were all referred to your department, weren't they? A. No, sir.

Q. You don't appear to have ever heard of that bill, then? A. *No, sir; I didn't have anything to do with it.*

Q. At that time? A. I remember distinctly, *it was one of the few bills I didn't have anything to do with.* Most generally when Senators have bills of that character they would bring them over to the department to have them prepared. When I saw this bill printed for the first time

when I got my copy each week from the Capitol I was very much surprised when I saw it introduced; but *I had nothing to do with it.*

Q. *At any time?* A. *No, sir.*

(Minutes, pages 566 and 567.)

By the amendment to the statute provided for in this bill the purchase of the Black Lake bridge at the sole expense of the State became possible, and the stage was set for that purpose.

After the enactment of the amendatory law the board of supervisors of St. Lawrence county, a body which had previously successfully resisted through all the courts the acquisition of this bridge at a cost of \$26,378.75, when the county was to bear 35 per cent of that cost, became active in the initiation of the proceeding to acquire the bridge when the entire cost was to be paid by the State.

An examination of the books of the bridge company throughout the entire period of its existence shows that there was no net revenue obtainable from this bridge. A 2 per cent dividend was declared in 1909, and three other dividends of the same amount later, making a total aggregate declaration of dividends during the approximately twenty years of its existence, of 8 per cent. This would be \$3,200 in all if the dividends were paid on the entire capital stock. The company was several thousand dollars more than that in debt when it ceased operating the bridge.

The entire receipts from the bridge, commencing with the year 1903 down to the time of its sale to the State, is shown by the books of the company to aggregate \$24,576. The expenses of maintenance, commencing, however, only with the year 1905, aggregated \$16,259.57. In addition, there was paid to the toll taker during that period \$2,760. This shows an excess of receipts over expenditure during that entire period of \$5,556.43, a sum less than the obligations outstanding for bridge repair when the bridge was finally sold to the State, which amount was \$5,813.84, plus \$485.86 due and unpaid for materials. In the meantime, the bridge had become sadly out of repair. It was out of line. The center pier had moved six or seven feet

down stream, and the other piers a shorter distance. The woodwork needed replacing. Several thousand dollars would have to be expended to keep it passable. Affairs were growing no better. The statement of 1921 shows that whereas they started with a deficit at the beginning of that year of \$11.16, there was a balance at its close of \$35.82, showing an excess of receipts over expenditures of the small sum of \$46.98. During that year they only expended for labor on the bridge \$878.82. During that portion of the year 1922 in which the ownership of the bridge remained in the company, this balance had been increased to \$293.71, an increase of \$257.89; but during that time only \$140.37 had been expended for labor on the bridge and it was drifting into the dilapidated condition referred to.

This was the situation of affairs when the proceeding to acquire this structure at the expense of the State was initiated by the filing of the resolution of the board of supervisors of St. Lawrence county. The law gave the Commissioner of Highways the power to approve of the resolution and to agree with the corporation owning the said bridge (subdivision 3, section 269, of the Highway Law, as amended in 1921) "upon the compensation which shall be made to it for the said bridge and its appurtenances, its franchises, its rights for the maintenance and use of said bridge, and any and all damage which shall result to said corporation so owning the said bridge by reason of the taking of such structure."

The statute further provided that in case of failure to agree with the corporation on the amount of compensation and damage condemnation proceedings should be instituted to determine the damage.

"Compensation" and "Damage" are the words used in the statute limiting the power conferred.

Before the sale was consummated, the principal owners of the bridge residing at Owego and Mr. Booth, who after the organization of the bridge company moved to Edwardsville, agreed with Ray M. Colby, a son of Ellery Colby, the president of the corporation, to sell him their stock at \$75 a share. Mr. Booth, the vice-president, who owned 54 shares, thought he was selling to Ellery Colby and was assured he would get as much as anyone. He stated, "I turned it over to them so they

could have control of the stock and *go on and do business*" (see page 543 of the minutes). Ray M. Colby turned up with this stock and was paid for it on the final distribution of assets. If, as stated by Mr. Reddish, the secretary and treasurer of this company, Ray M. Colby agreed to purchase the shares of the principal holders in the latter part of 1921, he must have had at that early date a strong premonition of what was to follow. The only previous sale of stock to any amount was the sale made to Mr. Ellery Colby by his brother, some six or seven years ago, of 50 shares of stock for \$1,700 (or at the rate of 34 per cent) with the agreement that if any larger amount should be obtained from the sale of the bridge, such additional amount, up to 75 per cent, should be paid for the stock. After the agreement to purchase the shares of the principal stockholders at 75 per cent, Mr. Ray M. Colby became active in the sale of the bridge and thereafter conducted negotiations for the stockholders.

On January 19, 1922, Roy F. Hall, Division Superintendent in the Department of Highways, made a report on this bridge to the State Highway Commission, such report having been requested by the State Highway Commissioner following the receipt of the petition from the board of supervisors. In this report Division Superintendent Hall expressly stated that "As at present constructed, the bridge is not satisfactory to take the traffic which it will receive."

This report was addressed to Mr. J. C. Finch, Secretary of the Commission, and was placed upon its files.

Mr. Hall gave testimony in this proceeding in regard to the condition of this bridge, as follows:

"Q. Describe the condition of the bridge as you saw it in 1922? A. Well, the short span of the bridge, the floor beams were in very good condition; the floor was practically useless; the floor boards were badly broken, large holes in the floor; very difficult to cross it with a car; there was no railing of any kind on this bridge; no guard rail. The causeway was in fairly good condition, though narrow. The large bridge of three spans was in very poor condition for traffic. The floor boards were weak and

worn out. The floor beams are quite light. They are too light for heavy traffic. The members of the bridge were more or less loose. One abutment had been pushed down the lake by the ice a year or two previously, throwing the trusses out of line. This abutment had been partially restored, but one truss had not been moved back into line. One of the shoes on which the truss rests had tipped up on an angle and was dangerously near the edge of the abutment. That is, with the gradual expansion and contraction of the truss, it had worked itself over the edge of the truss and the shoe reposed on an angle instead of lying flat.

“Q. Anything else about its condition, that you recall?

A. There was very little guard railing; no wheel guards on the long bridge.

(Minutes, pages 485 and 486.)”

This, briefly, is the condition which existed when the question of the amount of compensation to the owners arose.

Mr. Fred M. Eames, a civil engineer connected with the Highway Department since the fall of 1914, was selected for the purpose of making the appraisal. He was called up on the telephone on the 19th of January, 1922, a few days after the report of Hall as to the inadequacy of the bridge had been filed with the department, and was informed by Mr. Finch, the Secretary of the Commission, that he was wanted immediately at the office of Senator Clayton R. Lusk at the Capitol. He went to Senator Lusk's office and was introduced to him and was informed by the Senator in the presence of Mr. Finch that there was a bridge at Edwardsville, known as the Black Lake bridge, and that it was desired to get an appraisal on that bridge for the purpose of taking it over by the State, and that he (Eames) should go to Ogdensburg on the evening of January 26th and meet Mr. Crandall, of Cornell, and Mr. Colby, of the bridge company, and talk over matters with them, and on the next morning go to the bridge and make an

examination for the purpose of making an appraisal. He further states:

"There were further definite instructions given to me, in making the appraisal, that I should make it on the basis of what it would cost to replace the bridge today, at present prices, just as I found them, regardless of what might have been the width of the bridge or other conditions—I was to determine upon a replacement valuation.

(Minutes, page 546, lines 6 to 12, inclusive.)

As instructed, Mr. Eames went to Ogdensburg and to the bridge. The conditions, as he found them, are stated by him as follows:

"The lake was frozen over; * * * so that we walked out upon it, and the approaches and the causeway and other portions of the bridge were covered with ice and snow, so that the figures we used to obtain for the basis of our computation for the material under the snow, which meant the fills and the cribbing and all those items, had to be taken from the word of Mr. Colby, who was with us, who pointed them out, because there was no possible way at that time of taking any measurements for any of those figures, and that constituted approximately two-thirds or practically three-fourths of the whole estimation.

(Minutes, page 547, lines 6 to 16, inclusive.)"

Mr. Eames returned to Albany and on February 3d he was summoned to the office of the commissioner and directed to bring in his estimate. It was not quite completed. There he met the commissioner, Mr. Finch, his secretary, Mr. Colby; Senator Lusk and Professor Crandall; and was instructed to sit down with Professor Crandall and compare in the presence of the others the estimates, item by item. He further states: "I was told in the first instance that it was very desirable that we should arrive at a satisfactory appraisal, in which both Professor Crandall and myself would agree, *in order that they could get an appropriation through*

the current legislature before it adjourned for the purchase of the bridge, lest there should be the delays required by condemnation proceedings, or other delays, that would put it over to another legislature."

"Q. Who said that? A. I believe it was Senator Lusk who made that explanation to me.

"Q. Are you sure it was Senator Lusk who told you that? A. I am sure it was Senator Lusk said that; yes, sir.

(Minutes, page 551, lines 10-21.)

The estimate for the replacement cost of the bridge which Professor Crandall made for the bridge company was \$78,281, from which he deducted a depreciation of \$6,193, leaving a so-called net value of \$72,088. Mr. Eames' figures were \$74,937, deducting a depreciation of \$5,295, leaving a so-called net value of \$69,642. The depreciation consisted of an allowance by both engineers of 20 per cent on the masonry, 27 per cent on the steel, and Professor Crandall allowed 70 per cent and Mr. Eames 60 per cent on the floor plank, of a bridge twenty years old in the condition described by Division Engineer Hall. No depreciation was allowed on any of the other items of which the bridge was composed, although the bridge company had lived over 40 per cent of its corporate life at the termination of which the bridge would be open and free to the public (Matter of Mechanicville Bridge Co., 83 Misc. 331, 334). Its corporate life could have been extended by proceedings to that effect under the General Corporation Law, but only with the consent of the board of supervisors of the county (Transportation Corporations Law, section 152). It was not to be presumed, however, that this board which had twice instituted proceedings to make this a free bridge, would fail at the expiration of the charter of the company, to avail itself of the opportunity to then consummate that purpose without cost to the taxpayers.

The estimate contains the following note: "Note — The sum of \$68,175 was agreed upon in view of Mr. Eames' report that the floor system of the bridge would have to be

immediately replaced." That is a deduction from Eames' figures of about \$1,500, and was generously agreed upon to allow for repairs which Mr. Finch himself admitted on the witness stand would cost \$3,000.

The appropriation of this money, \$68,175, was made in the annual appropriation bill (chapter 165 of the Laws of 1922). It was for the purpose of including it in this measure that the great haste was urged upon Eames. An appraisal was insisted upon and made in mid-winter, when most of the important quantities were under the ice-bound waters of the lake, and the ascertainment of the quality and dimensions thereof was made solely from the unverified statement of the owner of more than three-fourths of the stock of the corporation. The item was included among thousands of others in this appropriation bill. It quietly reposes on the one-hundredth page of a statute one hundred and nineteen pages in length in the session laws. It manifestly attracted no attention. Its inclusion in this measure, which provided for the great annual expenditures of the State, largely protected it from inquiry, and it was for this reason, evidently, that haste was urged in order that it might not appear in a separate bill and thereby attract attention to itself on the part of inquiring legislators.

Clearly this is a striking instance of the totally inadequate method prevailing of permitting appropriations of the State's money without any adequate investigation and previous recommendation by the Executive Department as required by a well-worked-out budget system.

In addition to taking the unsupported word of the principal owner of the bridge for the quantities to be estimated, the still greater injustice to the State was pursued, with the consent of all interested, of reaching a valuation on the basis of the replacement value of the bridge, less a slight depreciation. There is no warrant in law for any such basis of estimate. Manifestly, it is ridiculous. Many structures which are comparatively useless and have little or no value, cost large sums of money.

The well-defined rule is that in condemnation proceedings the fair value of the property acquired by eminent domain is

the measure of compensation. This is elementary, well known to every lawyer. As defined by the courts, "The market value has been said to be the price that the property will bring when offered for sale by one desiring, but not obliged, to sell; and bought by one under no necessity for buying." (Matter of New York, Westchester & B. R. Co., 151 App. Div. 50, 55.)

Or, in other words, "The owner is to receive * * * the fair value as between one who wants to purchase and one who wants to sell." (Matter of Public Service Commission, 92 Misc., 420, at page 422.)

And again, "The real question is, What has the owner lost, not what has the taker gained." (N. Y. C. & H. R. R. Co. v. Mills, 160 App. Div., 6, 7.)

And again, "What the owner is entitled to is the value of the property taken, and that is what it is fairly believed a purchaser in fair market conditions would have given for it in fact; what a purchaser, who is not compelled to buy, would pay under ordinary circumstances to a seller who is not compelled to sell." (Matter of City of New York (Inwood Hill Park), 197 App. Div., 431; citing *People ex rel. Brown v. Purdy*, 186 App. Div., 54, 57 — affirmed 226 N. Y. 635.)

It is unnecessary to multiply quotations from the decisions. Any increased value which might arise from added traffic, by reason of the bridge being made *free*, cannot of course be considered. Those are conditions which could not exist as long as it remained a toll bridge in the ownership of the corporation.

Black River & M. R. R. Co. v. Barnard, 9 Hun 104.

Castle Heights Water Power Co. v. Price, 178 App. Div. 687.

Matter of Public Service Commission, 92 Misc. 420.

Mr. Finch, even as late as his testimony in this proceeding, adhered most resolutely to the theory that reproduction value, less depreciation, was the proper measure of damages, no

matter how inadequate the structure was. He adhered to this until corrected by his counsel, whereupon he changed the answer.

In the *Matter of Mechanicville Bridge Co.* (83 Misc. 331, 334), Judge Van Kirk discusses the measure of damages to be allowed on acquisition of toll bridges. He refers to the necessary consideration of net earnings, after the deduction of necessary repairs from the tolls, and also refers to the importance of considering the length of corporate life of the company. This company had lived two-fifths of its entire corporate life, and during that time had no net earnings.

It is quite probable, in certain cases where structures are taken by exercise of the sovereign power of eminent domain, that the original cost of construction, less depreciation, has a bearing on the present fair value of the property. That, however, can be the rule only where the investment is a judicious one and the property produces a net revenue. The original cost of a structure which as an investment is entirely worthless can have no great bearing upon its present value. It certainly cannot be controlling thereon.

The questions for determination, as repeatedly stated by the courts, are:

What is "the fair value as between one who wants to purchase and one who wants to sell?"

What is it fairly believed a purchaser in fair market conditions would have given for it in fact?

What would a purchaser who is not compelled to buy have paid under ordinary circumstances to a seller who is not compelled to sell?

What has the owner lost by being deprived of his property?

These were the questions which ought in fairness to have been answered, and under the conditions, the reproduction value could have had little or no connection with the fair solution and honest answering of these inquiries. If the cost of reproduction entered in any manner into the equation, certainly it should not be taken upon a basis of computation resting for the most part upon the bare statement of the principal owner.

If the bridge had more than a nominal value, such value under the most liberal estimate could not have exceeded the amount invested or the amount at which it was appraised by the appointees of the court in the proceeding initiated in 1909 and which the supervisors of the county refused to approve when 35 per cent. of the amount would be raised by taxation on local taxpayers.

Having agreed with the owners on the exorbitant price of \$68,175, a figure exceeding 250 per cent. of the amount at which it had been appraised by commissioners appointed by the court and which had been rejected by the county supervisors, since which appraisal and rejection the bridge had deteriorated in condition and had failed to earn any net revenue, the Commissioner of Highways made a formal written request of the chairman of the finance committee of the Senate, and the "appropriation was, as has been stated, included in the annual "Appropriation Bill."

On July 28, 1922, the bridge company received from the State of New York for the purchase price of the bridge a check for \$68,175. Out of this sum it was necessary to pay \$425 for the acquisition of lands and rights in clearing the title. It was necessary to discharge notes and obligations for bridge repair outstanding, \$5,813.84; and to pay for materials unpaid, \$485.86. The remainder of the purchase price was available for distribution, and the melon was cut. The proceeds were distributed and the company was dissolved. Various deductions were made pursuant to resolution of the board of directors adopted at a meeting held July 31, 1922. Prominent among these sums allotted, and the resolutions under which they were allotted, are the following:

"RESOLVED, That Ray Colby be paid the sum of \$4,200 for his services in looking after the sale of the bridge owned by this company, the acquiring of five parcels of real estate, and services in connection with the searches, the preparation and execution of contracts and for disbursements already incurred by him in the above corporation, and that he be paid also the sum of \$425.20 for disbursements already incurred by him in the above

matters and that a check be drawn to him by the officials of the company in payment therefor.

RESOLVED, That the salary of \$3,000 be paid to the president, Ellery Colby, for his services as such president from the first day of January to date, and for services to be rendered in the dissolution of the corporation and that he also be paid the sum of \$1,113.21 for materials furnished the corporation and for money expended by him in the purchase of materials and the right of way as per bills furnished by him and that he also be paid the sum of \$4,233.39 for notes held by him against said corporation and that checks for said amounts be drawn by the officers of the corporation to him to pay the same.

“RESOLVED, That a check be drawn to Herbert L. Smith by the proper officers of the company for the sum of \$1,250 for his services as attorney in clearing up title to property, purchasing parcels of land, and services on execution of contracts, and that a check for \$405.62 be drawn to said Herbert L. Smith for his disbursements in the above matter.

“RESOLVED, That a check for \$4,500 be drawn to Lusk, Buck & Ames, attorneys at Cortland, N. Y., for services in full for representing said company in the liquidation of its affairs, making out reports and tax returns and for services upon the dissolution of said corporation and the distribution of its assets.”

In addition to these sums, a check for \$1,500 was paid to Senator Thayer for services by direction of Ray M. Colby without any resolution of the board of directors authorizing the same. The treasurer of the company states that no bills were rendered for any of these amounts. Thus we have no statement of the details or the time occupied in the rendition of the services other than as disclosed in the resolutions.

Senator Thayer, as stated by Ray M. Colby, accompanied the latter to New York and assisted him in acquiring some rights to land under water which the Attorney-General insisted upon before he would pass the title. This was some

portion of the lands acquired, the purchase price of all of which amounted in the aggregate to \$425.

The sum of \$4,500, paid to the firm of Lusk, Buck & Ames, of which firm Senator Lusk was a member, appears by the resolution quoted to be for services in "representing said company in the liquidation of its affairs, making out reports and tax returns and for services upon the dissolution of the corporation and the distribution of its assets." The total tax paid was \$643.50. An error developed in this payment. The check was returned and the amount of the tax as finally fixed at \$607.75 was paid. The dissolution referred to was accomplished by holding meetings and taking the proceedings and filing the certificate requiring by section 221 of the General Corporation Law, without any court action whatever. The minutes of the meetings and the notices furnished me by the treasurer of the company providing for the dissolution of the company and the distribution of its assets under this section comprise in all only nine pages of typewritten matter.

In addition to these sums \$281.67 was paid to State Treasurer Marshall under the following resolution:

"RESOLVED, That the sum of \$281.67 be paid to N. Monroe Marshall for services as appraiser according to bill rendered, and that check be drawn by the officers of the company to pay the same."

It was stated that the owner of the land under water insisted that an appraisal should be made by the State Treasurer, and that for this reason it was necessary to obtain the services of Mr. Marshall.

After the computation and deduction of these allowances there remained for distribution among the stockholders the sum of \$107.30 per share. In addition to the substantial allowances for his services in the matter, therefore, Ray M. Colby made on the transaction by purchasing of 305 shares the sum of \$32.30 per share, or \$9,851.50. The remaining stockholders received the full amount of \$107.30 per share. There were ninety-two of these shares outstanding, held in single shares, with three exceptions in which two-share lots

were held. The receipt by these stockholders of this money must have come in the nature of a surprise. So little value had been attached to these shares of stock that when it came to distribute the funds, fourteen of the certificates had been lost. The ownership of nine of these certificates has been established by proceedings taken for that purpose. The ownership of the remaining five has not even yet been legally determined.

As soon as the bridge was acquired, substantial repairs were in order. Although under the law, the bridge was under the control of the then Department of Public Works, the money for these repairs was expended by the Department of Highways—illegally expended, as Mr. Finch now concedes.

On April 18th the attention of the then Commissioner of Highways, now Superintendent of Public Works, was called to the matter by a communication from the United States Department of Agriculture, Bureau of Public Roads, to which application had been made upon the proposition to use the Federal Aid funds on the bridge. Such aid was refused by the District Engineer, Guy H. Miller, in a communication as follows

“UNITED STATES DEPARTMENT OF AGRICULTURE

“BUREAU OF PUBLIC ROADS

“DISTRICT No. 9

“FEDERAL BUILDING, TROY, N. Y., *April 18, 1923.*

“STATE HIGHWAY COMMISSION,
Albany, N. Y.:

GENTLEMEN.—Reference is made to the project Statement for New York Federal Aid Project No. 290, Edwardsville-Morristown, St. Lawrence County.

“Our preliminary field inspection shows that the bridges at Sta. 0-18 of 36' span and the bridge at Sta. 10-72 to 16-12 of 540' span are inadequate.

It is believed inadvisable to advance this project until the necessary steps have been taken to secure satisfactory bridges at these places. The project Statement will be held in this office pending further information from you.

“Sincerely yours,

“(Signed) GUY H. MILLER,
District Engineer.”

The bridge was assessed from 1912 to 1915 at \$15,000 and thereafter reduced to \$10,000, one year the assessment being omitted entirely.

On August 2nd the Commissioner of Highways received a notice from the Town Superintendent as follows:

“State Department of Highways, Albany, N. Y. Attention Commissioner Greene.

“Black Lake Bridge dangerous condition. Give authority to repair or close highway by return wire.

The highway at the entrance of the bridge was thereupon closed by direction of the Commissioner and remained closed until substantial repairs were made upon the structure.

Under date of May 22, 1922, a report in reference to this bridge was submitted by J. V. McNary, Senior Highway Bridge Engineer of the United States Department of Agriculture, Bureau of Public Roads. The substance of this report is that the bridge was in decided need of substantial repairs, and, among other things, it is stated therein that: “These three piers have moved down stream from their original alignment. The center pier having moved six or seven feet and the others approximately one-half that amount.”

Also “due to the hazardous condition of the substructure and the fact that the roadway will be only 15' 0" from curb to curb, it is not believed that major repairs are justified.”

In the absence of major repairs, which are not recommended, the Federal Government will not participate in the cost of maintaining the structure. In order to make the bridge even a non-participating feature of a Federal Aid Project substantial repairs are recommended. Even this temporary

patchwork would cost from \$6,000 to \$7,000, as estimated by Mr. Finch.

Whatever happened behind the scenes in this series of transactions is hidden in the breasts of the participants.

It is most unfortunate that two State Senators, both of whom had been active in the matter even before the appropriation of State funds, and the State Treasurer, in a minor degree, participated in the proceeds of the sale.

It is unfortunate even though such participation was based upon the theory of services rendered.

Criticisms of the ideals or even of the public morals of Members of the Legislature or State Officers not connected with the Department of Public Works, does not come within the purview of this Commission to investigate that Department.

There is one angle of the affair, however, which plainly comes within the line of my duty for recommendation and that is as follows:

The facts recited show conclusively that in January, 1922, the then Commissioner of Highways, Herbert S. Sisson, after an adverse report by his Division Superintendent, after a previous appraisal of the structure at \$26,378.75, by Commissioners appointed by the court, which appraisal had been rejected by the county in behalf of its taxpayers, deliberately entered into an agreement to pay the sum of \$68,175.00 for this structure, worn and dilapidated, out of line and narrow, which was of no value to its owner, having no income producing capacity, being practically worthless. He deliberately agreed with the owner to pay the cost of replacement, with a small deduction for depreciation, ignoring all rules governing the determination of compensation at its fair value for property to be taken for public use. The estimate of this cost was made upon quantities based only upon the unverified statement of the principal owner of the bridge, made at a time when physical examination was impracticable. It was done in a hurry so that the amount might be included in the annual appropriation bill, the obvious result of which was that the item would not be exposed to the scrutiny which

would naturally be attracted to a special bill for the purpose. It was a manifest dereliction of duty. The Commissioner did not "faithfully discharge the duties of his office" in this regard. This condition of his undertaking, filed pursuant to Section 12 of the Highway Law, and paid for by the State, has been violated.

I recommend that the Attorney-General be requested to bring an action thereon against him and his sureties to recover damages suffered by the State by reason of his participation in this transaction and his failure to protect the State from this misuse of public funds.

RECOMMENDATIONS

In view of the foregoing, I therefore reiterate all of the recommendations contained in my preliminary report, bearing date October 20, 1923, so far as they have not already been complied with, and in addition thereto recommend the following:

1. That action be brought against Walter H. Wilms for damages accruing to the State on account of the unserviceable condition of the scows sold by him to it in July, 1922.

2. That the extension of the functions of the Department of Purchase, to include all purchases made by this and other departments of the State, be expedited in accordance with the letter and the spirit of chapter 128 of the Laws of 1922, establishing that department in order to provide for the central purchase of supplies.

3. That, pending such extension of the functions of the Department of Purchase to include the Department of Public Works, the responsibility of ordering all supplies, the fixing of prices therefor, and the payment of the purchase price thereof in the latter department be placed upon a single person with the requisite ability and full opportunity to attend thereto.

4. That in no case should there be any attempt made to evade the provisions of the State Finance Law, requiring the submission to the comptroller for his approval of contracts involving an expenditure in excess of \$1,000, by splitting up

bills for purchase, or otherwise, and any attempt to improperly evade such provision of law shall be followed by removal from office, and such other action as the circumstances in the particular case require.

5. That all officials and employees of the Department of Public Works connected with the transactions, except those who in the judgment of the superintendent acted purely in a clerical capacity, be removed from their positions if their connection with the department has not already terminated.

This recommendation does not apply to Miss Mary F. Connor, secretary to the former superintendent, who I believe, did her full duty in the matter in calling the attention of the superintendent to the excessive purchases from the supply company, followed by the direction of the superintendent to Doyle, made to her knowledge, for the discontinuance of the practice, and followed also by her subsequent protest to the latter in regard thereto. These occurrences were only a very short time before the commencement of these proceedings, and I cannot see that she was called upon in the short time intervening to take any further action than she did take.

6. That hereafter all contracts for dredging and other improvement of the canals be awarded to the lowest responsible bidder after open, competitive bidding.

7. That in case of failure to collect any judgment in the actions recommended to be brought in this or in the preliminary report, action be brought against former Superintendent Cadle and the sureties on his official undertaking for any deficiency arising by the transactions in that connection during his administration; and that action be brought therefor against former Superintendent Walsh and the sureties on his official undertaking, so far as such transactions occurred during his administration.

8. That action be brought in behalf of the State against former Commissioner of Highways, Herbert S. Sisson, and the sureties upon his official bond, for his failure to faithfully discharge the duties of his office in connection with the Black Lake bridge transaction.

9. That pursuant to the provisions of section 62 of the Executive Law, the Attorney-General be requested to institute

criminal action against Edward L. Swasey for fraudulently presenting bills for payment, and to prosecute any other crimes that may be brought to light in the course of such action.

(Signed) JOSEPH A. KELLOGG,
Commissioner.

In the Matter of Charges Preferred Against Frank P. Malpass, District Attorney of and for the County of Onondaga

NOTICE AND SUMMONS

STATE OF NEW YORK — EXECUTIVE CHAMBER

In the Matter of Charges Preferred Against Frank P. Malpass, District Attorney of and for the County of Onondaga

TO FRANK P. MALPASS, *District Attorney of and for the County of Onondaga:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of district attorney thereon has been asked by Lincoln W. Dygert, a resident of the city of Syracuse, county of Onondaga.

A copy of such charges is herewith served upon you.

I hereby fix the twenty-first day of November, 1923, at twelve o'clock noon, as the date on or before which your answer to said charges shall be filed with me; and you are further notified that on said twenty-first day of November, 1923, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and the Privy Seal of the State at the Capitol in
[L. S.] the City of Albany this fifth day of November in the year of our Lord one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

ORDER DISMISSING CHARGES

STATE OF NEW YORK — EXECUTIVE CHAMBER

In the Matter of the Charges Preferred against Frank P. Malpass, District Attorney of and for the County of Onondaga

An application for the removal of Frank P. Malpass from the office of District Attorney of Onondaga County having been made by Lincoln W. Dygert, a resident of the City of Syracuse, County of Onondaga, and a copy of the charges having been given to said Frank P. Malpass directing him to make answer thereto and he having filed his answer at a hearing in the Executive Chamber on the twenty-first day of November, nineteen hundred and twenty-three,

NOW, THEREFORE, I, Alfred E. Smith, Governor, after a careful review of the charges and the answer of the District Attorney as well as the facts brought out at the hearing at which Lincoln W. Dygert did not appear, do declare that the charges against Frank P. Malpass were not sustained and they are hereby dismissed.

GIVEN under my hand and the Privy Seal of the State at the Capitol in the City of Albany this twenty-first
[L. S.] day of November in the year of our Lord one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

In the Matter of Charges against Certain Notaries Public in the County of New York

APPOINTMENT OF COMMISSIONER

STATE OF NEW YORK — EXECUTIVE CHAMBER

WHEREAS, sundry charges have been filed with me against several Notaries Public having a commission to act in the County of New York;

AND WHEREAS, it is deemed expedient to investigate as to the truth of said charges together with the conclusions thereon;

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Terence Farley of the City of New York, to take evidence as to the truth of the charges presented and to report to me his findings of the material facts established in connection with them.

GIVEN under my hand and the Privy Seal of the State
at the Capitol in the City of Albany this thirteenth
[L. S.] day of December in the year of our Lord one thousand nine hundred and twenty-three.

(Signed) ALFRED E. SMITH.

By the Governor:

GEORGE R. VAN NAMEE,
Secretary to the Governor.

XI

PARDONS, COMMUTATIONS AND REPRIEVES

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XI

PARDONS, COMMUTATIONS AND REPRIEVES

Pardons, Commutations and Reprieves Granted by Governor Smith 1923

PARDONS

January 17, 1923. James Joseph Larkin. I have decided to grant the application to pardon Larkin, who was convicted and sentenced to a term of five years for violating sections 160 and 161 of the Penal Law. The great public interest aroused by this case prompts me to state my reasons.

The statute upon which Larkin was convicted defines criminal anarchy as the doctrine "that organized government should be overthrown by force or violence * * * or by any unlawful means". It provides that whoever advocates such a doctrine is guilty of a felony. What Larkin did was to join in issuing the manifesto of the so-called "Left Wing" of the Socialist party. That manifesto counsels a change in our form of government to what is described as the "dictatorship of the proletariat," and that this change should be accomplished by strikes called to affect the political action of the electorate.

My present action in no way involves the slightest agreement with this manifesto. I condemn the dictatorship of "the proletariat," of the farmers, of the capitalists, of the merchants or of any other section of the community. In a free democracy we know no dictatorships and we endure none. No group has any legal, social or moral right to impose by dictatorship its views or interests on any other group. Likewise I condemn the project to coerce political action by any such method as the calling of general strikes. Labor has the right to strike for the pur-

pose of securing reasonable improvement of its own conditions, but not for the purpose of driving other groups into the acceptance of a proposed political dictatorship. I disapprove such a project just as I would disapprove a combination of capitalists or of manufacturers to constrain political action of the laborers or the farmers by withholding from them the means of procuring the necessities of life.

I pardon Larkin, therefore, not because of agreement with his views, but despite my disagreement with them.

The Court of Appeals has decided that the issuance of this manifesto constituted a violation of the statute. It is my duty to recognize to the fullest the authority of that great court. And yet I find that two of the judges dissented from the judgment in an opinion strongly maintaining that Larkin was unjustly convicted, in that he was not advocating anarchy (which is the absence of all organized government), but merely a new and radically different form of organized government.

Executive clemency is the reserved power of the State, through the Governor, to mitigate the undue rigors of the law and in a proper case to temper justice with mercy. That two judges of our highest court regarded this conviction as legally unsound, is a circumstance which I take into account, though, of course, standing alone it would be an inadequate reason. But in this case I must consider it in connection with the following additional circumstances:

Larkin's prison record has been good and the application for his release has the approval of many highly respected citizens, including that of the assistant district attorney, who conducted the prosecution.

Moreover, there is no evidence that Larkin ever endeavored to incite any specific act of violence or lawlessness. What he did was to voice a faith that in the ultimate development of our political institutions there should be the radical change which I have described and condemned. Substantially his offense was nothing more than the issuance of a misguided opinion that in the remote future our system of government should be changed by a process abhorrent to our institutions. Our State rests too firmly upon the devotion of its citizens

to require for its protection an imprisonment of five years for the mere expression of an erroneous or even an illegal, political doctrine, unaccompanied by any overt act.

Moreover, I believe that the safety of the State is affirmatively impaired by the imposition of such a sentence for such a cause.

Political progress results from the clash of conflicting opinions. The public assertion of an erroneous doctrine is perhaps the surest way to disclose the error and make it evidence to the electorate. And it is a distinct dis-service of the State to impose, for the utterance of a misguided opinion, such extreme punishment as may tend to deter, in proper cases, that full and free discussion of political issues which is a fundamental of democracy.

Stripped of its legalistic aspects, this, to my mind, is a political case where a man has been punished for the statement of his beliefs. From the legal point of view it is a case where a man has received, during the period of unusual popular excitement following the close of the war, too severe a sentence for a crime involving no moral turpitude. One of the prevailing opinions in the Court of Appeals stated that the judge of that court recognized that "the sentence may have been too heavy for the offense". He has already served over two years in prison. This, in my judgment, fully expiates his offense. The State of New York does not ask vengeance and the ends of justice have already been amply met.

For these reasons I grant the application.

February 13, 1923. I have this day pardoned Ignatz Mizher, Paul Manko, Minnie Kolnin and Anna Leissman.

These people were convicted under the Criminal Anarchy Statute and are serving various sentences from two to five years. All of them except Minnie Kolnin would be released under parole during this year. The evidence upon which they were convicted is pretty much the same as that urged upon the trial of James Larkin, already pardoned. Their offense consisted of spreading literature concerning the Communist Party. They all came to our shores from a country

that attempted to thrive by oppression, but without success. They made the mistake of understanding liberty and freedom as license. While they should not be encouraged, no good can come from their further punishment. They, undoubtedly, understand by this time what is meant by the dignity and the majesty of the law. They are not criminals and I can see no useful purpose that will be served by holding them in prison any longer.

For the above reasons I am extending executive clemency.

February 15, 1923. Albert Aquilato. The prison physician advises me that this man has but a short time to live and for the purpose of permitting him to spend the remaining days outside of prison walls, I have granted a pardon.

June 26, 1923. Fred Hardin. Hardin was but a lad of 18 years of age when convicted of the crime of grand larceny in the first degree and sentenced to serve a term of 5 to 10 years. He has been severely punished by the time already served. His father, from Tennessee, called upon me today and he impressed me very favorably. I have, therefore, granted to him a pardon, so that he may accompany his father back home, to be with him and his mother.

August 22, 1923. Edward Pekarz. Convicted in New York county in June, 1905, of murder in the first degree and sentenced to be electrocuted. This sentence was commuted to life imprisonment in August, 1906. He has served over eighteen years. He is an alien and I am reliably informed by the counsel representing the Czechoslovakian government of this country that if Pekarz is released he will be deported. I can see no reason, therefore, for keeping him in prison at the expense of the State and have issued a pardon, so he may be released.

September 25, 1923. Fred Albert Hayes. This boy was convicted in Washington county of burglary in the third degree, and escaping from jail, and sentenced in September, 1921, to 8 years, 6 months minimum; 17 years maximum.

The judge before whom this boy was convicted and the district attorney who prosecuted the case have voluntarily advised me that the case, in their judgment, is one where

executive clemency should be granted. The district attorney, in fact, states that he believed at the time of sentence it was excessive. The boy's father, a citizen of Quebec, appeared before me today and assured me he would take his son to Quebec if released and take care of him and that he would not again come into the State of New York. I have, accordingly, granted a pardon releasing the boy.

October 1, 1923. Charles A. Peer. Peer was convicted in Washington county in September, 1921, of burglary in the third degree, and escaping from jail, and was sentenced to serve a term of 8 years, 6 months, to 17 years. The judge before whom this boy was convicted and the district attorney who prosecuted the case advised me that the case, in their judgment, is one where executive clemency should be granted. The district attorney, in fact, states that he believed at the time of sentence it was excessive. The boy's father, a citizen of Johnstown, Pa., appeared before me today and assured me he would take his son home if released and take care of him; not allowing him to come to the State of New York again. I have accordingly granted a pardon releasing the boy.

November 26, 1923. Stanley Francis McQuirk. Convicted in Rensselaer county of burglary in the third and grand larceny in the second, and sentenced in October, 1922, to Clinton prison for 3 years. I am reliably advised by the prison authorities at Clinton prison that McQuirk has a short time to live. I have accordingly issued a pardon.

December 22, 1923. G. A. Plageman. This young man was convicted in Onondaga county of assault, third degree, and sentenced May, 1923, to Onondaga county penitentiary for 1 year. His term will soon expire. His brother has come on from Virginia and is willing to take him out of the State and look after him. I have accordingly granted a pardon.

The following men were pardoned, after having served their sentences, for purposes of removing disabilities, or of permitting them to obtain their naturalization papers:

February 28, 1923. Paul Kravitz. Convicted in New York county, attempted grand larceny, sentenced July, 1915, to Elmira reformatory for an indefinite term.

February 28, 1923. Louis Goldberger. Convicted in New York county, grand larceny, sentenced in 1901 to Elmira reformatory for an indefinite term. Convicted in New York county of grand larceny, sentenced to New York penitentiary in June, 1903, for 1 year.

February 28, 1923. Guiseppe Forcino. Convicted in Herkimer county, January, 1908, assault, sentenced to Auburn prison for 1 year to 3 years.

February 28, 1923. Vincenzo Caiola. Convicted in New York county of possessing a revolver, sentenced July, 1913, Sing Sing prison for 1 year, 6 months.

March 24, 1923. Jacob Schliff. Convicted in New York county of attempted arson in the second degree and sentenced in November, 1912, to Sing Sing prison for 2 years, 5 months minimum; 5 years, 10 months maximum.

March 7, 1923. Frank Wozniak. Convicted in Queens county in February, 1909, of burglary, third degree, received a suspended sentence. Convicted August, 1909, of attempted burglary, sentenced to New York county penitentiary 11 months and 29 days.

March 7, 1923. Rocco DiNapoli. Convicted in Kings county of abduction in September, 1907, and sentenced to Sing Sing prison for 5 years.

March 26, 1923. Vincenzo Stile. Convicted in Kings county of grand larceny, first degree, sentenced June, 1914, to 10 years minimum; 16 years maximum.

March 26, 1923. Julius Katz. Convicted in Kings county of grand larceny in the first degree, and sentenced in December, 1917, to Sing Sing prison for 1 year minimum; 2 years maximum.

March 26, 1923. Joseph Massa. Convicted in Richmond county of assault in the first and second degrees, and sentenced in November, 1908, to Sing Sing prison for 1 year minimum; 2 years, 6 months maximum.

March 26, 1923. William Steino (true name Victor Costanzo). Convicted in New York county of unlawful entry and sentenced in April, 1907, to the New York county penitentiary for six months. Also convicted in New York county

of attempted burglary, third degree, and sentenced in February, 1908, to Sing Sing for 2 years.

March 14, 1923. Vincenzo Angello. Convicted in Onondaga county of manslaughter in the second degree, and sentenced in May, 1916, to Auburn prison for 1 year, 6 months to 2 years, 6 months.

March 26, 1923. Isidor Rosenblatt. Convicted in New York county of rape in the second degree and sentenced in September, 1918, to the Elmira reformatory for a term of imprisonment prescribed by law.

March 26, 1923. Guiseppe Careccia. Convicted in New York county of rape in the second degree, and sentenced in March, 1906, to Sing Sing prison for 9 years, 4 months.

March 30, 1923. William Stack. Convicted in New York county of grand larceny in the second degree, and sentenced in September, 1919, to Sing Sing prison for 1 year, 2 months minimum; 2 years, 2 months maximum.

April 4, 1923. Joseph Dreiblat. Convicted in New York county of criminally receiving stolen goods, and sentenced in June, 1916, to Sing Sing for 2 years minimum; 3 years maximum.

April 4, 1923. Barney Baxt. Convicted in New York county of grand larceny, and sentenced in November, 1907, to Sing Sing prison for 2 years, 8 months minimum; 3 years, 5 months maximum.

April 4, 1923, Andre L. Stapler. Convicted in New York county of manslaughter, first degree, and sentenced in June, 1918, to Sing Sing prison for 5 years, 4 months minimum; 11 years, 6 months maximum.

April 4, 1923. Gaetano C. Mancuso. Convicted in Westchester county of assault in the first degree, and sentenced to Sing Sing prison in May, 1911, to 5 years minimum; 8 years maximum.

April 19, 1923. Samuel Grossman. Convicted in New York county of burglary in the third degree, and sentenced July, 1913, to New York county penitentiary for 1 year.

May 21 1923. Pasquale Rizzuto. Convicted in May, 1911,

of assault and sentenced to Sing Sing for 3 years, 6 months from New York county.

May 21, 1923. Rosolino Sperlazzo. Convicted New York county of attempted extortion and sentenced in October, 1908, to Sing Sing prison for 2 years minimum; 2 years, 6 months maximum.

May 21, 1923. Abraham Schlittan. Convicted New York county of arson in the third degree and sentenced in March, 1913, to 1 year minimum; 14 years, 6 months maximum, to Sing Sing prison.

May 21, 1923. Jacob Schipper. Convicted New York county of arson in the second degree and sentenced to Sing Sing in April, 1913, for 8 years minimum; 12 years maximum.

May 21, 1923. Guiseppe Arcivolo. Convicted Kings county of felonious assault and sentenced in January, 1908, Sing Sing prison for ten years.

May 21, 1923. Isaac Sternbach. Convicted New York county of attempted burglary in the third degree and sentenced in July, 1914, to 1 year minimum; 2 years maximum, to Sing Sing prison.

May 21, 1923. Girolamo Gutto. Convicted under the name of Gerolmo Utta in Essex county of attempted extortion and sentenced in December, 1907, to the Elmira reformatory.

June 5, 1923. David Tanenbaum. Convicted Richmond county of assault and sentenced in March, 1920, to Sing Sing prison for 2 years, 6 months minimum; 4 years, 6 months maximum.

June 26, 1923. Samuel Adamo. Convicted in Kings county of assault in the second degree and sentenced in December, 1915, to the Elmira reformatory for an indefinite term.

June 26, 1923. Henry Gessner. Convicted in New York county of attempted burglary third degree and sentenced to New York penitentiary in April, 1915, for 3 months.

June 26, 1923. Pietro Muraca. Convicted in Oneida county of abduction and sentenced in February, 1914, to 2 years minimum; 3 years, 6 months maximum, in Auburn prison.

June 26, 1923. Philip Marino. Convicted in New York county of assault in the second degree and sentenced in May, 1916, to Sing Sing for a term of 2 years, 7 months.

June 28, 1923. Tony Brutto. Convicted in Bronx county of abduction in December, 1919, and sentenced to Sing Sing for a term of 5 years minimum; 9 years, 7 months maximum.

August 20, 1923. Joseph Samaritano. Convicted in New York county of manslaughter in the first degree and sentenced in June, 1906, to Sing Sing for 20 years.

September 7, 1923. David Stone. Convicted in Kings county of robbery in the first degree and sentenced in November, 1907, to Sing Sing prison for 12 years, 6 months minimum; 19 years maximum.

September 7, 1923. Salvatore DeFazio. Convicted in New York county of burglary and sentenced in May, 1911, to New York penitentiary; convicted in New York county in May, 1912, and sentenced to Sing Sing for 5 years, 7 months.

September 7, 1923. Paul Carl Hoppe (James Hooper). Convicted in Kings county of burglary in the third degree and sentenced in February, 1914, to New York penitentiary for a term of 1 year.

September 7, 1923. Herbert J. Slabery. Convicted in New York county of attempted robbery in the second degree in April, 1922, sentence suspended.

September 24, 1923. Charles D'Amico. Convicted in Albany county of assault in the first and sentenced in May, 1911, to Clinton prison for 5 to 10 years.

October 3, 1923. Alberto Esposito. Convicted in New York county of attempted grand larceny and sentenced in December, 1912, to Elmira reformatory for a term of 2 years, 6 months; convicted in Kings county of selling cocaine and sentenced in October, 1916, to Sing Sing prison for a term of 5 years.

October 3, 1923. Morris Aronsberg. Convicted in New York county of attempted burglary and sentenced to Elmira reformatory in March, 1908, for a term of 2 years, 6 months.

October 3, 1923. Zambeto Collegero (Gambetta Collo-

gio). Convicted in Kings county of attempted extortion and sentenced in January, 1909, to Sing Sing prison for 2 years minimum; 2 years, 6 months maximum.

October 15, 1923. Leo Arkowitz. Convicted in New York county of maiming and sentenced in January, 1907, to Sing Sing prison for 2 years.

October 27, 1923. Yves deVillers. Convicted in New York county of grand larceny in the first degree and sentenced in January, 1915, to a term of 2 years, 6 months minimum; 3 years, 6 months maximum.

November 21, 1923. Morris Peretzky. Convicted in New York county of rape and sentenced in November, 1909, to a term of 4 years, 4 months to 8 years, 8 months in Sing Sing prison.

November 21, 1923. Bernardino Palladino. Convicted in New York county of sodomy and sentenced in May, 1905, to Sing Sing prison for a term of 18 years.

November 21, 1923. Anton Einzig. Convicted in New York county of grand larceny, second degree and sentenced in December, 1916, to the New York penitentiary for 1 year.

November 21, 1923. Sam Freling. Convicted in New York county of criminally receiving stolen property and sentenced in March, 1918, to 6 months.

November 21, 1923. Nunzio Castorina. Convicted in New York county of criminally receiving stolen goods and sentenced in January, 1919, to 90 days.

November 21, 1923. Thomas DeMario. Convicted in New York county of feloniously possessing burglar's tools and sentenced to the New York county penitentiary in December, 1912, for 1 year; convicted in April, 1915, of burglary in the third and sentenced to the New York penitentiary for 6 months.

November 27, 1923. Dominick Figgolosi. Convicted in Cayuga county of assault in the second and sentenced in May, 1913, to Elmira reformatory for an indefinite term.

November 21, 1923. James Firoleto. Convicted in New York county of assault in the second and sentenced in September, 1917, to 30 days in the New York city prison. Con-

victed in New York county of confession to burglary in the third degree and sentenced in February, 1915, to Elmira reformatory for an indefinite term.

December 11, 1923. Frank Tomasula. Convicted in New York county of grand larceny in the first and sentenced in March, 1911, to a term of 3 years, 7 months minimum; 9 years, 6 months maximum to Sing Sing prison.

December 11, 1923. Frank Vilardi. Convicted in Cattaraugus county of robbery in the second and sentenced in April, 1916, to Elmira reformatory for an indefinite term.

December 22, 1923. Morris Dickler. Convicted in New York county of robbery in the second and sentenced to Sing Sing in September, 1915, for 3 years minimum; 6 years maximum.

December 22, 1923. Thomas LaDelfa. Convicted in New York county of assault and sentenced in August, 1912, to Sing Sing prison for 2 years, 6 months to 5 years.

December 22, 1923. Adolph Becker. Convicted in New York county of assault in the second and sentenced in October, 1912, to the New York county penitentiary for one year.

December 31, 1923. Barrymore Myers. Convicted in Bronx county of disorderly conduct and sentenced in September, 1918, to an indefinite term.

REPRIEVES

February 15, 1923. Angelo Tumbarello. Respited until the week beginning June 4th, 1923.

May 21, 1923. Additional respite until the week of November 12th, 1923.

October 27, 1923. Additional respite granted until the week of December 3, 1923.

February 15, 1923. Emilio Semione. This man was convicted in Erie county of murder in the first degree and sentenced to be electrocuted during the week of March 19th, 1923. I have granted reprieve in the case till the week of June 4th, 1923, to await the outcome of the case of DePaulo who was

indicted with Semione for the same crime and who had a separate trial.

May 28, 1923. I am granting an additional respite, because the case of a co-defendant was reversed by the court of appeals, extending the time till the week of November 12th, 1923, to permit of a retrial of De Paulo.

October 27, 1923. Additional respite granted till the week of December 3, 1923.

April 16, 1923. Frank Fevrola. Convicted in Westchester county of murder in the first degree and sentenced to be electrocuted during the week of April 16th, 1923. At the request of the district attorney of Westchester county, I have granted a respite in this case until the week beginning May 27th, 1923.

May 28th, 1923. Additional respite granted till the week of June 25th, 1923.

June 28, 1923. Additional respite granted until the week of October 1st, 1923.

April 19, 1923. Thomas Kindlon. I have granted a respite in this case until the week of June 4, 1923. This will bring his electrocution in the same week as that of Lester, who was a co-defendant and convicted of the crime of murder in the first degree. Floyd Mann, another co-defendant, jointly indicted with Kindlon and Lester, has not yet been placed upon trial. I do not believe that any of the men convicted should pay the extreme penalty until the third case has been tried and disposed of by the courts.

April 26, 1923. Antonio Marino. Convicted in New York county of murder in the first degree in June, 1922, and sentenced to be executed during the week of April 30th, 1923. At the request of the district attorney of New York city I have granted a reprieve extending the time for execution until the week of July 2, 1923.

June 27, 1923. I have granted an additional respite until the week of October 22d, 1923, at the request of the district attorney of New York county.

April 26, 1923. Santo Cusamano. Convicted in New York county in July, 1922, of murder in the first degree and sentenced

to be executed during the week of April 30th, 1923. I have granted a respite in this case until the week of July 2, 1923, at the request of the district attorney of New York county.

June 27th, 1923. I have this day granted an additional respite in this case until the week of October 22nd, 1923, at the request of the district attorney of New York county.

June 4, 1923. Robert J. Blackstone. Convicted in Bronx county of murder in the first degree and sentenced in July, 1922, to be electrocuted during the week of June 4th, 1923. At the request of counsel for this man I have granted a respite until the week of July 9th, 1923, to permit the attorney to make application for a new trial.

COMMUTATIONS

January 24, 1923. Rutger B. Warder. I am unwilling that the full penalty of the law shall run against the defendant, Warder, and I have decided to commute his sentence to life imprisonment.

I have no doubt about the guilt of Warder, but I have doubt about the justice of exacting from him the full penalty of the law. The evidence used against him would indicate that other people were involved in the commission of this crime. The State's case against him rested almost entirely upon a confession he made himself, which confession he afterwards withdrew. While it is true that his first confession was supported by certain circumstantial evidence, it is also true that future developments may indicate other people involved as seriously if not more so than Warder, himself. Should these circumstances made themselves apparent, we would be very unfortunate if they were found when Warder was out of the way. For these reasons I believe that the ends of justice will be satisfied and that full and complete penalty will be exacted by confining him in State's prison for the rest of his natural life.

February 9, 1923. Beckie Weinberg. This woman is over sixty years of age. She has been in prison two years, four months and one day. I am advised by the prison physician that

she has valvular heart trouble and diabetes, and that she is liable to die at any moment. I have accordingly commuted her sentence so she may be released.

February 13, 1923. Saverio Peluso. I have commuted this man's sentence from death to life imprisonment upon the unanimous recommendation of the judges of the Court of Appeals.

February 28, 1923. Roberto Raffaele. This man was convicted in New York county of murder in the first degree, and was sentenced to be electrocuted during the week beginning October 3, 1921. His case was passed upon by the Court of Appeals and his conviction affirmed, but two judges of that court dissented on the ground that they thought the trial judge had committed errors in his charge. Since that time, three respites have been granted in this case.

The district attorney, who prosecuted this man and the judge, who presided at the trial, under date of February 19, 1923, have recommended to me that they believe, owing to the services performed by this man in the conviction of others connected with the same crime, that he was entitled to clemency, and they have recommended that his sentence be commuted to life imprisonment.

Acting upon these recommendations, I have accordingly commuted this man's sentence to life imprisonment.

March 7, 1923. Raymond Hildebrandt. This man was sentenced to Clinton prison in December, 1921, for the crime of burglary in the third and grand larceny in the first degree for a term of 3 years minimum; 5 years maximum.

His sentence is commuted to 1 year, 3 months, 2 days minimum; 5 years maximum.

Judge Crandall who imposed the sentence called upon me today and said that he thought Hildebrandt had been sufficiently punished by the time served and recommended that he be released. I have accordingly commuted the sentence so that this man may be given his freedom under the jurisdiction of the Parole Board.

March 9, 1923. Hugh S. Doyle. This man was convicted in New York county of forgery in the second degree and sentenced to Sing Sing prison in January, 1920, for a term of 5

years minimum; 9 years, 6 months maximum. His prison conduct has been exemplary. With the usual time allowed under the law his minimum term would expire in October of this year.

His wife is in the State institution at Raybrook undergoing treatment for tuberculosis. This leaves a family of seven children, the oldest but fourteen years, without parental care.

I am commuting the sentence to 3 years, 7 days minimum; 9 years, 6 months maximum.

I believe that this man has learned his lesson and that the ends of justice have been met by the time already served, and I am therefore releasing him under parole.

March 9, 1923. Nathan Holland. This boy was but seventeen years of age at the time he was convicted of the crime of robbery in the first degree. He had no previous criminal record. The judge who presided at the trial saw fit to send him to Auburn prison for 3 years minimum; 8 years maximum. I believe that a boy seventeen years old ought not to be sent to State's prison if there is another institution where he might be imprisoned. He could have been sent to the Elmira reformatory and released after serving twelve months and twenty days. He has now served a longer period.

I have commuted the sentence to 1 year, 1 month and 16 days minimum; 8 years maximum, so he may be released under and subject to the jurisdiction of the Parole Board.

March 12, 1923. Harry Elliott. This man was convicted in New York county of grand larceny, first degree and sentenced in April, 1922, to Sing Sing for a term of 2 years minimum; 4 years maximum.

Commuted to 10 months, 11 days minimum; 4 years maximum.

Elliott is not in any sense of the criminal type. He was led into this crime by a much older man who planned the whole affair and Elliott followed his lead. The complainants in the case from whom the bonds were stolen, are on record here in this office with a recommendation under date of June, 1922, that in their opinion Elliott has been sufficiently punished and then stated that because of his assistance to the authorities a large portion of the bonds were recovered.

I am advised by the prison physician that Elliott is suffering from an advanced heart lesion.

After a careful consideration of all the facts connected with this case I have reached the conclusion that it is one which warrants the exercise of executive clemency, and I have commuted the sentence so the prisoner may be released under parole.

March 13, 1923. William Davis and Frank Marino. Davis was convicted in Kings county of murder in the second degree and sentenced in 1908 to Sing Sing prison for a term of 20 years minimum; life maximum. This man will have served fifteen years, on October 19th of this year, and if convicted today of the same crime that would be the limit of punishment which the State could impose under the law. Commuted to 14 years, 4 months and 25 days minimum; life maximum.

Marino was convicted in Kings county of murder in the second degree and sentenced in 1910 to Sing Sing prison for a term of 20 years minimum; life maximum. Commuted to 12 years, 4 months and 27 days minimum; life maximum.

Both of these men have been model prisoners all during their entire confinement and have been trustees in the prisons where they are confined. Every warden who has had charge of them is on record recommending that by reason of their perfect deportment and their faithful services to the State they are entitled to clemency.

I am commuting their sentences so they may be released under and subject to the jurisdiction of the Parole Board.

May 21, 1923. Warren J. McFarlane or Warner J. MacFarlane. Convicted in Kings county of grand larceny in the second degree, first offense, and sentenced in June, 1920, to 5 years in Sing Sing prison.

Commuted to 2 years, 11 months minimum; 5 years maximum.

I am reducing this man's sentence by about four months so that he may be released under and subject to the jurisdiction of the Parole Board.

June 26, 1923. Otis Odell Walker. Walker was convicted in Queens county of robbery in the first degree, grand larceny

in the first degree and assault in the first degree, and was sentenced in June, 1918, to Sing Sing prison for 10 years minimum; 20 years maximum.

Commuted to 5 years, 14 days minimum; 20 years maximum.

I have reduced the sentence in this case on the specific recommendation of the judge who presided at the trial, who states that, in his judgment, this man has been sufficiently punished. This commutation will permit of the release of Walker under and subject to the jurisdiction of the Parole Board.

June 29, 1923. Edward Masher. Edward Masher, with several others, was indicted for robbery in the first degree. Masher was tried and convicted of attempted robbery and sentenced in October, 1921, for a term of 7 years. Since his conviction the complaining witness who testified against him has refused to identify the other men connected with the crime. In view of the attitude of the complainant the judge who presided at the trial and the district attorney who prosecuted the case advise me that, in their judgment, Masher has been sufficiently punished.

I have accordingly commuted the sentence to 1 year, 9 months minimum, 7 years maximum, so that this man may be released under parole.

July 12, 1923. William A. Hogan. William A. Hogan had no previous record. He was convicted in New York county of grand larceny in the first degree, and sentenced in July, 1922, to Sing Sing prison for a minimum term of 1 year, 6 months, maximum term 3 years. His minimum term would expire so that he might be released in October of this year. I am, therefore, reducing his sentence by a little more than two months.

His release is recommended by the man who prosecuted him, who states in his communication to me that Hogan's family is in great distress; his family is large and includes a crippled boy, who requires medical attention, and that the return of the wage-earner is necessary to prevent absolute destitution.

I see no useful purpose to be served by keeping this man in prison for two months more.

I have, therefore, commuted his sentence to a minimum term of 10 months, 16 days, maximum 3 years, so that he may be released under and subject to the jurisdiction of the Parole Board.

July 16, 1923. Samuel Williams. This man was convicted of murder in the second degree in New York county, and sentenced in May, 1909, to Sing Sing prison for a minimum term of 20 years, maximum life.

Committed to 14 years, 2 months, 2 days minimum, maximum life.

I am reducing this man's sentence by a little less than 10 months, and am doing it for the reason that throughout his long period of confinement he has conducted himself in such a way as to set an example for others. He has been recommended by all the officers of the institution in which he is confined, for his faithful service. In recognition thereof, I have commuted his sentence so that he may be released under parole.

July 24, 1923. Louis Paccelli. Paccelli was convicted in Rensselaer county of robbery in the first degree and sentenced in March, 1921, to a term of 10 years minimum; 20 years maximum.

I have commuted the sentence to 2 years, 2 months and 15 days minimum; 20 years maximum.

This commutation I am granting upon the express recommendation of the judge before whom he was convicted and of the district attorney who prosecuted the case. The judge writes me as follows: "From my knowledge of the facts in this case I feel that there was some doubt about Paccelli being at the actual scene of the crime" and that owing to the attitude of the complaining witness, who refuses to identify the other men implicated in the crime, that executive clemency might well be extended to Paccelli.

I have, therefore, commuted this man's sentence so he may be released under and subject to the jurisdiction of the Parole Board.

August 13, 1923. Samuel Shapiro. Convicted in New York county of grand larceny in the first degree and crim-

inally receiving stolen property in the second degree, and sentenced on the first charge in September, 1919, to a term of five years to ten, and on the second charge in November, 1919, to a definite term of four years.

Both Judge Rosalsky and Judge Nott, before whom this man was convicted, recommend to me that this man's sentence be commuted so he may be released after serving the minimum of his first term. Acting upon such recommendation, I have commuted the sentence to 3 years, 11 months, 23 days minimum; 10 years maximum; so he may be released under and subject to the jurisdiction of the parole board.

August 13, 1923. Constantino Ponesse. Convicted in Essex county of manslaughter in the first degree and sentenced in November, 1917, to a minimum term of 9 years, 6 months; 10 years, 6 months maximum.

Commuted to 5 years, 10 months, 13 days minimum; 10 years, 6 months maximum.

I am commuting the sentence of this man upon the express recommendation of the judge who sentenced him and the district attorney who prosecuted him. His family are a public charge on the community in which they live and need his help and assistance very much. He has served all but a little more than a year of his minimum term. His previous record, as well as his record in prison, is good. I am of the opinion that there is nothing to be gained by keeping him in prison another year. The sentence is therefore commuted to the time served.

August 22, 1923. Abraham Graff. The following is the statement of the acting district attorney of New York county, in the matter of application for clemency in the case of Abraham Graff:

July 19, 1923.

HON. ALFRED E. SMITH, *Governor of the State of New York,*
Albany, N. Y.:

SIR: Referring to the application for Executive pardon which has been made to your Excellency on behalf of one Abe Graff, I have the honor of submitting the following for your consideration:

Said Abe Graff was indicted by the grand jury of the county of New York, on January 12, 1917, for murder in the first degree. He was jointly indicted with one Joseph Cohen, David Jacobs, Harry Cohen, Moe Rosenstein, and William Simon, the specification in such indictment charging the said defendant with the murder of one Barnett Baff on November 24, 1914.

Said Abe Graff was tried under said indictment in the Supreme Court of New York county jointly with the co-defendants, Joseph Cohen, Harry Cohen, and David Jacobs before the Honorable Arthur S. Tompkins, a justice of the Supreme Court. Upon the said trial, the jury by its verdict acquitted the defendants David Jacobs and Harry Cohen, convicted the defendant Joseph Cohen of murder in the first degree, and convicted Abe Graff of manslaughter in the first degree, said verdict having been rendered on the 23rd day of July, 1917. Upon said conviction Graff was thereafter sentenced by Mr. Justice Tompkins to State prison, to an indeterminate sentence of not less than ten years, nor more than twenty years. The other convicted defendant, Joseph Cohen, was sentenced to death.

Thereafter, and during the year 1919, a so-called John Doe proceeding was instituted before Hon. John F. McIntyre, a judge of the Court of General Sessions of the county of New York, sitting as a committing magistrate. In the course of said proceeding, considerable evidence was adduced tending to show the commission of perjury by witnesses for the People upon the trial of the aforesaid indictment. As a result of such evidence, Mr. Judge McIntyre directed the district attorney to present the evidence to the grand jury of New York county.

Thereafter, considerable evidence was presented to the grand jury of New York county, with the result that on or about the 20th day of February, 1920, one Joseph A. Sorro was indicted charged with having committed the crime of perjury in connection with the giving of his testimony as a witness for the People against the above defendants upon the said trial.

Said indictment against Sorro was thereafter tried before Hon. Joseph F. Mulqueen, a Judge of the Court of General Sessions and a jury, with the result that on or about the 12th day of July, 1921, the jury rendered a verdict convicting said Sorro of such perjury. Following such conviction, Mr. Judge Mulqueen sentenced said Sorro to State prison for the maximum penalty of not less than ten years nor more than twenty years. Thereafter, a motion for a certificate of reasonable doubt on behalf of said Sorro was made in special term of the Supreme Court, before Hon. Edward Finch, a justice thereof. This motion was denied. Subsequently an appeal from said judgment of conviction was taken by said Sorro in the Appellate Division of the Supreme Court which appeal was thereafter duly dismissed on motion of the People.

The theory upon which the People prosecuted the indictment against Sorro was in substance that said Sorro had committed perjury as a witness for the People upon the aforesaid trial of Abe Graff, et al, in the furtherance of a conspiracy to bring about a conviction of the defendants.

In January, 1921, a few months prior to the trial and conviction of Sorro, a motion was made in special term of the Supreme Court, New York county, before Hon. Edward J. Gavegan, the justice thereof, for an order setting aside the judgment of conviction of said Joseph Cohen for murder in the first degree, upon the ground of newly discovered evidence. Such newly discovered evidence included the evidence adduced in the aforesaid John Doe proceeding before Mr. Justice McIntyre, and in the proceedings before the grand jury, which led to the indictment of Sorro. Upon the return of said motion, Mr. Justice Gavegan reserved decision pending the outcome of the prosecution of Sorro for perjury. On November 23, 1921, following the trial and conviction of Sorro for perjury, Mr. Justice Gavegan announced his decision upon said motion, granting the same and setting aside the aforesaid conviction of Joseph Cohen. In a lengthy and elaborate opinion accompanying such opinion, Mr. Justice Gavegan indicated that he had taken into consideration, in granting said motion, the importance of the testimony given by Sorro as a

witness for the People upon the trial of Joseph Cohen and Graff, and the prosecution and conviction of Sorro for perjury in connection with the giving of such testimony. Thereafter said indictment against Joseph Cohen was, on motion, dismissed by the Hon. Edward V. Whitaker, a Justice of the Supreme Court, in December, 1921.

The undersigned, then a deputy assistant district attorney for the county of New York, represented the People in the aforesaid John Doe proceeding, and in the subsequent proceedings before the grand jury which led to the indictment of Sorro, and upon the trial of said Sorro. The undersigned respectfully submits it as his opinion that without the aforesaid testimony of Joseph Sorro, no conviction could or would have been had against either Joseph Cohen or Abe Graff.

Under the provisions of the Code of Criminal Procedure, an application to set aside a judgment of conviction other than a judgment of death, must be made within one year of the rendition of such judgment. The undersigned knows of no legal provision which would give the courts of this State jurisdiction to entertain an application on behalf of Abe Graff to set aside his judgment of conviction at any time after the establishment of the commission of perjury upon his trial by the aforesaid Sorro, because of the lapse of time between the date of the conviction of Graff and the establishment of the commission of perjury by Sorro.

Upon all of the foregoing circumstances, as well as upon all of the other matters presented to your Excellency by the undersigned at the public hearing which was held before you on July 16, 1923, on the aforesaid application for Executive pardon, the undersigned respectfully recommends the exercise of your Excellency's discretion in favor of the granting of such application."

Respectfully submitted,

FERDINAND PECORA,
Acting District Attorney."

Upon the strength of the above recommendation on the part of the acting district attorney of New York county, I am

commuting this man's sentence to 6 years minimum; 20 years maximum so that he may be released under and subject to the jurisdiction of the Parole Board.

Aside from the fact that the district attorney's memorandum creates a doubt as to whether Graff was properly convicted, he has served six years out of a possible seven years, 5 months, twenty days. There is no doubt in my mind that this man would have been accorded a new trial if a motion for such new trial could have been made under our Criminal Practice. A co-defendant on trial with Graff was accorded a new trial after conviction on substantially the same evidence used by the People against Graff. The motion for the new trial was undoubtedly accorded this co-defendant upon the ground that one of the principal witnesses against him was afterwards tried and convicted in the Court of General Sessions in the county of New York of perjury, which perjury grew directly from testimony used by the State against the defendant. As will be seen in the district attorney's memorandum, this same testimony was used by the People in the conviction of Graff.

In view of all of the facts in the case; in view of the doubt created by the conviction of the People's witness; in view of the specific recommendation of the district attorney, I believe this man to be sufficiently punished.

September 7, 1923. John L. Varady. Convicted in Bronx county of perjury and sentenced in June, 1920 to Sing Sing for a term of 5 years minimum; 10 years maximum.

Commutated to 3 years, 3 months minimum; 10 years maximum.

This commutation is granted upon the recommendation of the judge who sentenced Varady, who states in his communication that he believes that Varady has been sufficiently punished and that his sentence should be commuted to time served so that he may be paroled. I have, therefore, commuted the sentence so that Varady may be released under and subject to the jurisdiction of the Parole Board.

September 7, 1923. Patrick H. Rafferty. Rafferty was convicted in Kings county of murder in the second degree and sentenced in 1910, to Sing Sing for 20 years minimum;

life maximum. Under the law his minimum term would expire at the end of another five months and twenty-four days. His release was recommended in June, 1921, by the judge who presided at the trial and by the district attorney who prosecuted him. In view of their recommendations, I have commuted the sentence to 13 years, 6 months, 6 days minimum; life maximum, so that he may be released under parole.

September 10, 1923. David Gerustein. Convicted in Wyoming county of grand larceny in the first degree and sentenced in February, 1920, to ten years.

I am commuting this man's sentence because I am in possession of information submitted to me by an attorney from Jersey City sent to Buffalo to prosecute crimes against the railroads in Buffalo to the effect that he was informed, and reliably so, that Gerustein was not implicated in any way in this crime. He has served more than three and a half years of a possible seven. His conduct while in prison has been good, and his parole is recommended by the warden of Auburn prison.

For the above named reasons I have commuted his sentence to 2 years, 4 months, 5 days minimum; 10 years maximum, so he may be released under the jurisdiction of the Parole Board.

September 10, 1923. William E. Carmody. Just before one Thomas Kindlon, executed on June 7th, 1923, was led to the electric chair, he made an affidavit in which he stated that this man, Carmody, was not concerned in the crime for which he stands convicted. He further stated that he withheld this information as a matter of protection to himself up to and including the time that he felt he was to suffer the full penalty of the law for the crime he committed. Immediately following the receipt of his affidavit I referred the matter to the district attorney of Rensselaer county, and the district attorney after reciting a history of the crime for which this defendant, Carmody, was convicted, stated the following.

"The sworn statement and confession made by Kindlon raises a doubt in my mind as to whether the defendant, Carmody, was one of the persons present at the time the

alleged crime was committed. In having that doubt I would give to the defendant the benefit thereof and recommend that executive clemency be shown to him."

In view of the above facts I have this day commuted the sentence to 1 year, 11 months and 5 days minimum; 5 years maximum, so he may be released under parole.

September 19, 1923. William DeLorme. This man was convicted in Rensselaer county of robbery in the first degree and sentenced to Clinton prison in April, 1919, for 7 years, 1 month minimum; 10 years, 3 months maximum.

The case is recommended by the district attorney who prosecuted the case and by the judge who presided at the trial. The judge advises me as follows:

"When one of the principals by the name of Kelly, was tried, the jury disagreed, and the disagreement I am convinced came about principally through a change in the evidence on the part of the complaining witness.

"I have always felt since the Kelly trial that the sentence pronounced by me on DeLorme was excessive, and that if in your judgment a commutation could now be granted to him, it would be just under all the circumstances in this case, and in view of the length of time he has now served."

In view of the above recommendations, I have commuted DeLorme's sentence to 4 years, 5 months, 3 days minimum; 10 years, 3 months maximum, so he may be released under parole.

September 25, 1923. Frank Fevrola. I have given careful study to the facts in this case. The former district attorney of Westchester county makes the following recommendation to me:

"When district attorney of Westchester county I personally prosecuted Frank Fevrola and a co-defendant named in the same indictment with him, to wit: Anniello Paretti. They had separate trials and both were convicted

of murder in the first degree and both in my opinion were not only guilty but equally guilty.

"Mr. Frank Fevrola's conviction, as you know, was affirmed on appeal, while the Court of Appeals reversed the conviction of Paretti. Both the affirmance and the reversal occurred after my retirement from office. Paretti was never retried but released.

"I feel that in view of Paretti having obtained his entire freedom that a commutation of Fevrola's sentence from death to life would be proper."

Taking into consideration the facts in this case and the above recommendation, I have reached the conclusion that the ends of justice would be served by commuting the sentence to life imprisonment.

October 5, 1923. Louis Abeson. This man was convicted in Schenectady county of manslaughter in the first degree in May, 1920, and sentenced to a term of 10 years minimum; 20 years maximum.

Committed to 3 years, 4 months and 15 days minimum; 20 years maximum.

Clemency is recommended by the judge who presided at the trial and by the district attorney who prosecuted him. They state that they believe the man has been sufficiently punished for the crime committed. In view of their attitude I have commuted the sentence so he may be released under parole.

October 17, 1923. Martin Hart. This man was convicted in New York county in 1916 of murder in the second degree and sentenced to Sing Sing for 20 years to life.

Committed to 6 years, 11 months minimum; life maximum.

I am granting this upon the recommendation of the assistant district attorney who prosecuted the case who advises that in his judgment had this man been convicted of manslaughter in the first degree the ends of justice would have been met. He has practically served as long as he would be compelled to serve if he had been convicted of manslaughter in the first. His prison record has been good. He has a family of five

children and I can see no reason for keeping him in prison any longer.

I have accordingly commuted the sentence so he may be released under parole.

October 23, 1923. John Roberts. True name Joseph J. Ronker. This man was convicted of criminally receiving stolen goods, first degree, and sentenced in June, 1922, to Sing Sing prison for 2 years, 6 months minimum, 5 years maximum.

He has no previous criminal record. His prison conduct has been exemplary. The judge who imposed the sentence advises me that he believes this man has been sufficiently punished.

I have therefore, commuted the sentence to 1 year, 4 months minimum; 5 years maximum, so he may be released under parole.

October 24, 1923. Santo Cusamano and Antonio Marino. I am in receipt of the following communication, dated October 23, 1923, in the above matters:

"To his Excellency, ALFRED E. SMITH, Governor of the State of New York, Albany, N. Y.:

SIR:—After a most careful and serious consideration, the undersigned join in an application to your Excellency to commute to life imprisonment the death sentences in the cases of Antonio Marino and Santo Cusamano, whose execution is set for the night of next Thursday, October 25th.

The facts in this case are well known to your Excellency. The considerations which move us to make this application are:

First: That the convictions of each defendant were based very largely upon testimony of one Roberto Raffaele who, at the time he gave his testimony, was himself awaiting execution after a conviction for the same crime. We are mindful of the extreme probability that such testimony as Raffaele gave might have been predicated upon his hope, which was in fact thereafter realized, that his own sentence of death would be commuted to life imprisonment.

Second: It is an established fact that while they were convicted of murder in the first degree in having participated in the death of Guisepppe Varotta, a child that had previously been kidnapped at the time of the death of such child, they were in custody and were prisoners in the city prison in the city of New York.

Third: Who the actual murderers of the Varotta child were has never been disclosed. If these two defendants are executed it is likely that the real culprits will never be known. If subsequent disclosures or information should bring to light their own identity, it is our belief that the testimony of these two defendants might aid in the conviction of the actual murderers.

Fourth: In the decision of the court of appeals in the case of Cusamano, affirming the judgment of conviction, two judges dissented upon the ground that the evidence in the case other than that given by Raffaele was not in their judgment sufficient to justify the death sentence.

"Upon all the circumstances, therefore, we, the judge who presided at all three trials above referred to, and the district attorney of the county of New York, are of the opinion that the interest of justice would be best served by the granting of a commutation to life imprisonment in the case of these two defendants.

Respectfully yours,

(Signed) ALFRED J. TALLEY,
Judge of the Court of General Sessions.

(Signed) JOAB H. BANTON,
District Attorney of the County of New York."

In accordance with the above recommendations, I have commuted the sentences of these two men to life imprisonment."

November 22, 1923. Frank Gentile. This man was convicted in New York county of robbery in the first degree and sentenced to Sing Sing prison in October, 1921, to a term of 10 years minimum; 20 years maximum.

Committed to 2 years, 28 days minimum; 20 years maximum.

I am advised by the prison physician that this man is in the last stages of tuberculosis and has but a short time to live. I am, therefore, reducing his sentence so he may be with his parents.

November 23, 1923. Hanford N. Rogers. Convicted in Albany county of forgery in the second degree and sentenced in June, 1922, to Clinton prison for 3 years minimum; 6 years maximum.

Commutated to 1 year 5 months and 4 days minimum; 6 years maximum.

Commutation granted upon the express recommendation of the judge who presided at the trial and of the district attorney, on the ground that, in their judgment, this young man has learned his lesson and has been sufficiently punished for the crime committed.

November 26, 1923. Henry Berman. Convicted in Nassau county of robbery in the first degree and sentenced in April, 1919, to 10 years minimum; 20 years maximum.

Commutated to 4 years, 8 months, 1 day minimum; 20 years maximum.

I believe that this man has learned his lesson and has been sufficiently punished by the time served. I am, therefore, commuting his sentence so he may be released under and subject to the jurisdiction of the Parole Board.

November 28, 1923. John Callahan. Convicted in Onondaga county of robbery in the first degree and sentenced in January, 1922, to 3 years minimum, 8 years maximum.

Commutated to 1 year, 10 months, 17 days minimum; 8 years maximum.

This man's minimum term would expire in March, 1924. I am, therefore, reducing the sentence by less than four months.

November 28, 1923. Michael LaPlaca. Convicted in Livingston county of manslaughter in the first degree and sentenced in June, 1918, to a term of 9 years, 3 months minimum; 19 years, 3 months maximum.

Commutated to 5 years, 5 months and 20 days minimum; 19 years, 3 months maximum.

Granted upon the express recommendation of the judge who presided at the trial and of the district attorney who prose-

cuted the case, who state that they believe this man has been sufficiently punished.

December 1, 1923. Joseph Shea. Convicted in Albany county in June, 1923, of grand larceny in the first degree and sentenced to Clinton prison for 1 year minimum; 3 years maximum.

Commuted to 5 months minimum; 3 years maximum.

Granted upon the express recommendation of the judge who presided at the trial who advises me that he believes this man has been sufficiently punished, and such recommendation is concurred in by the district attorney.

December 3, 1923. Angelo Tumbarello. This man was convicted in Kings county of murder in the first degree and sentenced to be electrocuted in 1921. He has been under respite since that time for the purpose of permitting the officers of the law to apprehend and procure the principal of the crime, Guiseppe De Matteo. This codefendant has been convicted of murder in the first degree and that conviction confirmed by the Court of Appeals.

The district attorney of Kings county advises me that, in view of the valuable assistance Tumbarello has rendered to the State in his companion case, that he is entitled to a reduction of his sentence. I have, therefore, commuted Tumbarello's sentence to life imprisonment.

December 3, 1923. Luciano Millimo. This man was convicted in Schenectady county of murder in the second degree and sentenced in June, 1910, to 20 years minimum; life maximum.

Commuted to 13 years, 6 months, 4 days minimum; life maximum.

Millimo's prison conduct has been excellent. In 1920 the judge who presided at the trial made a positive recommendation that he believed this man should be released; that he had been sufficiently punished. Since then three years have elapsed. The term would expire under the law in November, 1926.

In view of the above facts I have commuted the sentence so that this man may be released under and subject to the jurisdiction of the Parole Board.

December 4, 1923. John Fraino. Convicted in Oneida county of murder in the second degree and sentenced in November, 1911, to 20 years to life.

Commutated to 12 years, 19 days minimum; life maximum.

This man has had a perfect prison record.

The judge before whom Fraino was convicted stated that he opposed an application of this kind until the prisoner had served at least ten years. Fraino has served two years longer than that period and his release is not only recommended by the judge, but by the district attorney who prosecuted him, Fraino has long been a trusty and has worked outside of the prison for the State in highway work.

After a careful consideration of the facts surrounding this man's case I have commuted the sentence so he may be released under and subject to the jurisdiction of the Parole Board.

December 4, 1923. John Serling. Serling was convicted in Onondaga county of perjury in April, 1923, and sentenced to Auburn prison for a term of 3 years minimum; 5 years maximum.

Commutated to 7 months, 27 days minimum; 5 years maximum.

This boy was but 20 years of age at the time of conviction, and, in my judgment, he should have been sent to the Elmira Reformatory instead of to State's prison, being within the age limit, 13 to 30 years. It is very probable that he did not appreciate the gravity of the offense which he committed.

I am commuting the sentence so he may be paroled, believing that he has learned his lesson.

December 5, 1923. Lorenzo Zucco. Convicted in Albany county of perjury in November, 1917, and sentenced to 10 years minimum; 19 years, 6 months maximum.

Commutated to 6 years, 28 days minimum; 19 years, 6 months maximum.

After a careful examination of the facts in this case I am satisfied that this man has been sufficiently punished and have accordingly granted a commutation so he may be released under parole.

December 6, 1923. William B. Harrison. Convicted in Queens county of robbery in the first degree, grand larceny in

the first degree and assault in the first degree, and sentenced in June, 1918, to 10 years minimum; 20 years maximum.

I have commuted the sentence to 5 years, 5 months and 23 days minimum; 20 years maximum.

The judge who presided at the trial recommends that he believes this boy should be released; that he has been sufficiently punished. The father of the boy appeared before me personally and promised me that he would take his son to Alabama with him and see that in the future he leads an honest and upright life. I have reached the conclusion that it is a proper case for executive action and have accordingly granted the commutation so Harrison may be released under and subject to the jurisdiction of the Parole Board.

December 7, 1923. William Braun. Convicted in Orange county of murder in the second degree and sentenced in February, 1919, to 20 years to life.

Commuted to 4 years, 9 months and 24 days minimum; life maximum.

Granted upon the express recommendation of the judge who presided at the trial and of the district attorney who prosecuted him who advise that in their judgment (this was in 1920) the man has been sufficiently punished. About three years have elapsed since that recommendation was filed in this office. I am now commuting the sentence so this man may be released under parole.

December 7, 1923. Alfred Hendrickson. Convicted in New York county of manslaughter in the first degree and sentenced in March, 1917 to 9 years, 7 months minimum; 19 years, 7 months maximum.

Commuted to 6 years, 8 months and 20 days minimum; 19 years, 7 months maximum.

I am reducing this sentence by less than five months. There are a number of very reputable people who have employment for this man when released. I believe he has been sufficiently punished.

December 7, 1923. Robert E. Crutchfield. This man was convicted in New York county of grand larceny in the second degree and sentenced to Sing Sing prison in December, 1922 for 2 years minimum; 4 years maximum.

I am commuting the sentence to 11 months, 14 days minimum; 4 years maximum so he may be released under and subject to the jurisdiction of the Parole Board.

I am advised by the prison physician at Sing Sing that this man is suffering from advanced heart lesions. The people from whom the money was taken, for which he was prosecuted, write me that if his physical condition is such that his health might be impaired by keeping him further confined, they are willing to recommend that he be released. This letter is dated in March, 1923.

December 8, 1923. Alfred L. Mayer. This man was convicted in Erie county of grand larceny in the first degree and sentenced in June, 1922, to a term of 4 years minimum; 10 years maximum; at Auburn prison.

His prison term would end in June, 1925.

I have commuted his sentence to 1 year, 6 months, 8 days minimum; 10 years maximum.

I am satisfied, after examining the records in this case, and the report of the judge who presided at his trial, that this man has learned his lesson and will not again offend against society. I am, therefore, commuting his sentence so that he may be released under parole.

December 8, 1923. Vieto Candella. This man was convicted in Otsego county of attempted murder in the second degree and sentenced in July, 1917, to prison for a minimum term of 10 years; maximum, 16 years, 6 months.

I am commuting the sentence to 6 years minimum; 16 years, 6 months maximum.

I am granting this commutation of sentence upon the expressed recommendation of the district attorney, who prosecuted the case, and the judge, who presided at the trial. They stated to me that they believed this man has been sufficiently punished, and I concur with their recommendation.

I am commuting his sentence so that he may be released under parole.

December 8, 1923. Ferdinando Trocchiano. This man was convicted in New York county of manslaughter in the first degree and sentenced in October, 1919, to prison for a mini-

num term of 8 years ; maximum 16 years. His minimum term would not end until July 12, 1925.

I am commuting his sentence to 4 years, 1 month, minimum ; 16 years maximum.

I have carefully examined the facts in this case, and the reports of the judge and the district attorney filed therewith. This man had no previous record, and prior to the occurrence for which he was convicted he had been continuously employed in one place for 15 years. He has people who are willing to give him employment upon his release, and I am satisfied that he should be given a chance to redeem himself : I have accordingly commuted his sentence as above indicated.

December 10, 1923. Stanley Gorski. This man was convicted in Erie county of murder in the first degree and sentenced to be electrocuted during the week beginning December 10, 1923.

Three other men were engaged in this crime, and when their cases were reached in the courts, two of them were allowed to plead guilty to manslaughter in the first degree and sentenced to prison for terms of ten years minimum ; twenty years maximum. The third man was allowed to plead guilty to manslaughter in the second degree and was sentenced to the Elmira reformatory.

The judge, who presided at the trial, and the district attorney, who prosecuted this case, have both informed me that they believe the ends of justice would be met if this man's sentence were commuted to life imprisonment. After a careful examination and hearing upon this case, I concur with their conclusion, and I have, therefore accordingly commuted his sentence to life imprisonment.

December 13, 1923. Roy S. Smithson. Convicted in Queens county of robbery in the first degree, grand larceny in the first degree, and assault in the first degree, and sentenced in June, 1918, to a term of ten years minimum ; 20 years maximum.

Commutd to 5 years, 5 months and 28 days minimum ; 20 years maximum.

I am granting this man's release upon the express recom-

mendation of the judge who presided at the trial, and recommended a commutation of the sentence in July of this year. This commutation permits Smithson's release under and subject to the jurisdiction of the Parole Board.

December 14, 1923. Otto Dahl. Convicted in Cattaraugus county of manslaughter in the first degree, and sentenced in April, 1919, to 7 years minimum; 10 years maximum.

Commutated to 4 years, 8 months, 8 days minimum; 10 years maximum.

Granted upon the express recommendation of the judge and district attorney who have advised me that this man, in August, 1923, served sufficient time to meet the ends of justice..

I have accordingly commuted the sentence so he may be released under parole.

December 14, 1923. William Pearson. Convicted in Erie county of grand larceny in the first degree, and sentenced in January, 1922, to a term of 3 years minimum; 7 years maximum.

The minimum term would expire under the law in May, 1924. I have commuted the sentence to 1 year, 10 months and 17 days minimum; 7 years maximum; and the commutation is granted upon the express recommendation of the district attorney of Erie county that Pearson after his arrest rendered valuable service to the State in disclosing all the facts and assisting in the apprehension of others implicated in the crime.

December 14, 1923. Ginco Pavalo. Convicted in Chautauqua county of murder in the second degree and sentenced in January, 1919, to 20 years to life.

I have commuted the sentence to 4 years, 10 months, 20 days minimum; life maximum; upon the reports of the judge and district attorney who, in 1922, recommended that this man's sentence be commuted.

December 14, 1923. William Baldwin Smith. This man was convicted in New York county of robbery in the first degree and sentenced in July, 1922 to Sing Sing Prison for 6 years, 6 months minimum; 20 years maximum.

Granted upon the express recommendation of both the judge who presided at the trial and the district attorney of New York county, both recommending in October, 1923, that this man should receive executive clemency.

December 14, 1923. Nathin Slotkin. Convicted in Erie county in 1922 of grand larceny in the first degree and sentenced for a term of 1 year, 2 months minimum; 4 years maximum.

Commutated to 7 months, 3 days minimum; 4 years maximum.

After a careful consideration of the facts of this case I am satisfied that this man has learned his lesson and for that reason I am commuting the sentence so he may be released under parole.

December 13, 1923. Carmella Balanga. This man was convicted in Oneida county of manslaughter in the first degree and sentenced in February, 1919, to 10 years minimum; 15 years, 3 months maximum.

Commutated to 4 years, 9 months, 8 days minimum; 15 years, 3 months maximum.

Both the judge and district attorney advise me that they believe this man has been sufficiently punished and I concur in their recommendation. I, therefore, have commuted the sentence so he may be released under parole.

December 21, 1923. Harry Friedman. This man was convicted in Queens county in April, 1921, of attempted robbery in the first degree; attempted grand larceny in the first degree and assault in the first degree, and was sentenced to Sing Sing prison for 5 to 10 years.

Commutated to 2 years, 7 months, 19 days minimum; 10 years maximum.

I have given careful consideration to the facts in this case and on the evidence before me I have arrived at the conclusion that this man has learned his lesson. I have, therefore, commuted his sentence so he may be released under parole.

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MISCELLANEOUS

Special Article by the Governor for the Princetonian, Official Daily Paper of Princeton University

On January 7, 1923 The Princetonian, an official daily newspaper of Princeton University, requested Governor Smith to write a special article for their publication. The article follows:

Marked by an increasing number of college-trained men, the next generation of Americans should produce a quality in American political life that will immeasurably raise its standards toward a liberal ideal. In my message to the Legislature this year I said:

"Education is the one thing in government that must always be 100%. We may fall down in our programs for public betterment or public improvements, but time lost in the development of education can never be made up. . . . Every father and mother should instinctively do their best to give their children all that the State affords in education. It is the safeguard of the State and of the nation. Anybody desiring to have a proper understanding of the necessity for an education need only talk to the man who was denied it."

Politics, after all, in its broadest sense, is applied political science. The science of government is gradually coming to be understood both by the legislator and the executive. We have been going through a steady process of education in the last few years in the State of New York looking to a reorganization of our complicated system of administering the State government. The study of that program and its execution could not have been undertaken had we not had the aid of students of political science and men of public affairs both in the Legislature and out, who appreciated its importance.

There is apparently a tendency in some colleges to promote a discussion of the issues of the day and to consider them from a liberal standpoint. Such discussions promote interest in the political problems and only by such a stimulation of thought can we hope to attain progress.

College education, practically directed, with an emphasis placed on the realities of life, will undoubtedly enable a man to fill an important place in politics as it will in any other field of activity. Education, rightly utilized, never goes amiss, and it is a fine thing to look forward to having a larger number of college men enter the political field.

I cannot too strongly urge upon college men of today an active interest in the grave public questions that beset us. Politics is but the translation of policies sometimes discussed academically for many years into active expression, but which cannot become realities until in some form they are realized in governmental activity.

ALFRED E. SMITH.

January 21, 1923.

Reestablishment of the Bureau of Women in Industry in the Department of Labor

February 13, 1923.

Hon. Alfred E. Smith, Governor of the State of New York, Executive Chamber, Albany, N. Y.:

MY DEAR GOVERNOR.—Pursuant to your recommendation, I have this day reestablished the Bureau of Women in Industry in the Labor Department.

As you know, this Bureau was abolished by the so-called reorganization of two years ago and its staff was materially reduced. It was left with three employees—a chief of division, an investigator and a stenographer.

My restoration of the Bureau of Women in Industry will mean very little unless it is given adequate facilities to deal with the problems especially affecting the health, welfare and safety of working women and children. This bureau should be equipped to obtain all of the facts relating to the conditions under which women and children are employed; to study industrial processes with a view to reducing the strain and fatigue to which women workers are subjected and to be in a position to recommend improved standards of employment for women and children, either by voluntary cooperation of employers or by remedial legislation where necessary.

For this important work I shall ask for an increased appropriation for the Bureau for the year beginning July 1, 1923 and for a pro rata deficiency appropriation for the next four months. The Bureau will then have the necessary trained investigators and facilities to carry on its work and will produce results that I am sure will be worth while not alone to the working women directly affected but to the entire community.

I trust that this meets your views with regard to the development of the Bureau.

Very sincerely,

(Signed) BERNARD L. SHIENTAG,
Industrial Commissioner.

Message to Newsboys of Worcester, Massachusetts

February 16, 1923.

Mr. E. D. Dolhenty, Telegram Publishing Co., Worcester, Mass.:

MY DEAR MR. DOLHENTY.—I am glad to comply with your request for a message to the newsboys of Worcester, Massachusetts.

Boys are the same the world over, but these youthful merchants indicate their purpose in life by grasping every opportunity and today we find in positions of trust in some of our largest industries those who in early life were learning while selling papers.

There is pride in success but we must ever remember that only a strict application to the principles of rightful living and careful study can help us to attain it. We all have an equal opportunity in striving to determine our future but we must be guarded by our conscience in doing those things which go with good citizenship. Work for your ideals and many obstacles will be overcome and you will be rewarded as success is ready to knock at your door.

I cannot but help at this time to call to mind the heroism of Scotty, a Brooklyn newsboy, who fought in the Yankee Division and who was recognized for his heroic conduct. But sixteen years of age, he left his paper route to join the 101st Regiment on its way to France. He gave the best that was in him, his life, in service of his country.

Sincerely yours,

(Signed) ALFRED E. SMITH.

The Governor Approves and Transmits to Congress Memorial Requesting Modification of Volstead Act

STATE OF NEW YORK — IN ASSEMBLY

Albany, February 20, 1923.

By Mr. Donohue:

WHEREAS, The interpretation of the Eighteenth Amendment to the Federal Constitution expressed in the Volstead Act has resulted in widespread contempt and violation of the law, in illegal traffic in liquors and in official corruption; and

WHEREAS, The Governor in his annual message has correctly set forth that "the history in our own State does not indicate that a majority of the people are in sympathy with the existing Volstead act," and that Congress alone can amend that legislation;

Therefore be it Resolved (if the Senate concur and the Governor approve), That the legislature and the Governor of the State of New York do hereby memorialize the Congress of the United States to enact such modifications of the Volstead act as shall legalize subject to the approval by the people of the State, the use of beer and light wines under such careful restrictions as were imposed by the law passed in New York in 1920;

Be it further Resolved (if the Senate concur and the Governor approve), That a copy of this resolution may be transmitted by the Governor to the clerk of the United States Senate and to the clerk of the House of Representatives and to each Senator and Representative in Congress.

By order of the Assembly,

FRED W. HAMMOND,

Clerk.

IN SENATE

Feb. 21, 1923.

Concurred in without amendment.

By order of the Senate.

D. F. MULLANEY, *Clerk.*

According to the terms of the Resolution.

Approved:

(Signed)

ALFRED E. SMITH,

Governor.

Conference on Public Health and Medical Practice

On February 26, 1923, Governor Smith summoned to the Executive Chamber the heads of the State and county medical associations, the State Commissioner of Health, the members of his staff, all of the public health councils and the deans of the medical colleges of the various universities of the State.

The purpose of the conference was to have the representatives of the medical schools of the State, themselves discuss questions affecting public health and thus assist in formulating the health program of the State. The topics for discussion were, rural health, narcotic drugs, the standards of medical education and medical research, and the enforcement of the Medical Practice Act.

Governor Smith made a few brief introductory remarks and presented Dr. Biggs, who discussed health conditions in the rural sections of the State. His paper was then discussed by Dr. Booth, President of the State Medical Association and others. A thorough discussion of State subsidies for rural health work took place and in the course of the discussion, Governor Smith said: "We would like to have established some definite policy to look to in the future, in the years to come when our experience may be worse than to-day. If we once get it established as a matter of State policy, that we propose to subsidize a township or a county for proper hospital facilities, and that the State proposes to see the doctors are there if they cannot bring them in any other way, we have established the whole principle.

A discussion of the narcotic drug problem by Dr. Carleton Simon of the New York City Police, Dr. Haven Emerson, Dr. Harlow Brooks and Dr. Walter Timme followed. Dr. William Darrach, Dean of the College of Physicians and Surgeons of Columbia University, spoke on standards of medical education and Dr. Simon Flexner of the Rockefeller Institute spoke on the legislative problems of medical research. There was a brief discussion of the enforcement of the medical practice act.

At the conclusion of the meeting, the Governor asked for the appointment of a committee representing the conference. Such a committee was appointed and reported to the Governor in March 1923.

The report was signed by Doctors Arthur W. Booth, Edward Livingston Hunt, Orrin S. Wightman, Daniel S. Dougherty, Wendell C. Phillips, Jacob Diner, Grover W. Wende, J. Richard Kevin, Walter L. Niles, Joseph S. Thomas, Frederic E. Sondern, Samuel J. Kopetzky, Carleton Simon.

The report stated in part: "It is undoubtedly true that, in a certain small number of outlying rural communities in this state, there is a lack of physicians, particularly in the winter time; but it is doubtful in the extreme if state subsidies would correct the situation in those communities. The number of physicians in a given county is governed by the laws of economics; and any decrease in this number is generally explained by lessened population, lessened morbidity and mortality and the individual physician's ability to care for a greater number of patients than formerly, due to the automobile, the telephone and the increased number of good roads,—which latter, moreover, are kept open to a greater extent during the winter months now than in the past. It must not be forgotten, too, that it requires more patients to support a doctor to-day than it did formerly.

"From these facts, it is evident that the disproportion between the number of physicians in rural centers now and in the past is not as great as a superficial survey of the statistics would seem to indicate. Certainly there is no indication for the adoption of a state subsidy program. In Pennsylvania, where the subsidy plan has been in operation, it has failed completely and the monetary aid granted to the various counties has degenerated into a veritable political "pork barrel."

"There is another aspect to the rural health problem in the question of hospital, nursing and laboratory facilities in country communities. There is no question that for the benefit of public health it is absolutely essential that these facilities exist in number and position to be promptly available in every instance when needed. The list of new hospitals and the contemplated ones mentioned at the conference on February 26th is an indication not only of this need, but also of the fact that it is being met locally, to some extent at least. In the interest of public health, therefore, the State Department of Health should inaugurate an extensive educational campaign to urge the local county authorities to meet their own needs. Experience teaches that local control and local support produce the best results in this field; and should isolated instances be found where, for one reason or another, this is not possible, then and only then should subsidy and central control be provided.

"There is no question in the minds of this Committee but that certain communities and districts up-state are now lacking in adequate medical care; and the physicians of the State are as anxious as the State Board of Health to remedy conditions."

As a result of the Conference and the report of the Commission the Governor transmitted a special message to the Legislature, recommending the enactment of laws to permit the State to aid public health works in rural communities and other public health measures. This Legislation was enacted into law.

(Note) See Message, page 176.

Statement by the Governor — Death of W. Bourke Cockran

With great difficulty am I able to explain the great shock I felt upon receiving the news of the sudden death of W. Bourke Cockran. His passing from this life removes one of America's great men. The history of his life reads like a romance built upon early struggle and latter day success. He was a forceful and vigorous character and by sheer ability he fought his way from the humble school room in which he taught on the lower East side of Manhattan to a position of prominence in the greatest Nation in the world.

His death is a distinct loss to the country, and one beyond measure to his personal friends, a distinction I enjoyed during his life time, because those fortunate enough to count him as such, knew the warmth of his friendship and the strength of his loyalty and devotion.

March 1, 1923.

The Governor Initiates the Transfer of the Vehicular Tunnel Project to the Port Authority of the Port of New York

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 5, 1923.

Hon. George S. Silzer, Executive Chamber, Trenton, N. J.:

MY DEAR GOVERNOR.—I desire to ask you to consider with me bringing about a closer union between two great public work projects—the Port of New York Authority and the Vehicular Tunnel Commission—jointly undertaken by compact between the states of New York and New Jersey.

The purpose of establishing the Port Authority was to bring about a joint development of the great port facilities possessed by both states and by adopting a comprehensive plan for port development to fix a policy for both states that would preclude ill-considered or sporadic development and encourage the port in making the most of its wonderful natural endowments.

The Vehicular Tunnel, on the other hand, is one of those individual projects of great value to the completed plan for improved transportation and distribution within the port district but it was initiated in both states at a time when the port treaty had not been signed or the Port Authority created or the Comprehensive Plan adopted under our present compact.

In New York State it is constructed and to be operated under an agency known as the New York and New Jersey Bridge and Tunnel Commission, composed in New York of three members appointed by the Governor, one by the Mayor of New York City, and two ex-officio members. In New York State it is financed out of current revenues.

When the project is completed, it logically is a part of the port plan.

Since we have jointly created the Port Authority as the great agency of both states and given it corporate as well as political power, I would suggest that the Vehicular Tunnel project be transferred to it. This would have many advantages. The Port Authority could issue its own bonds to finance the project from now on and thus relieve the taxpayers in both States from further burdens. The revenues from the tunnel would amortize these bonds and eventually the tunnel would become the property of the states just as now contemplated. Although the staff of the Bridge and Tunnel Commission might be taken over advantageously by the Port Authority, overhead costs would be materially reduced.

We would set an example by fostering consolidation of public works projects and financing such a one as this which will readily carry its own cost of construction, maintenance and operation without recourse to the public purse.

It will be necessary in order to do this to amend the compact between the two states under which the Vehicular Tunnel is now being built and to make some modification of other statutes. These are details which can be discussed and adjusted. The important factor is the adoption of the policy of having engineering work involving improvement of the port development part of the Comprehensive Plan and under one agency thoroughly equipped to construct and operate the facility without private profit and without public cost.

If you will join me in considering this plan, I will be glad to arrange conferences that may be necessary to bring about the adjustment of details and the formal initiation of the necessary changes in the law.

(Signed) ALFRED E. SMITH.

Governor Pinchot of Pennsylvania Urges That State of New York Abandon Suit to Test Constitutionality of Federal Water Power Act

COMMONWEALTH OF PENNSYLVANIA — GOVERNOR'S OFFICE

Harrisburg, March 9, 1923.

Hon. Alfred E. Smith, Governor of New York, Albany, N. Y.:

MY DEAR GOVERNOR.—I have read with great interest your water power message of March 5th, and I wish you every success in your effort to furnish

to the people generally, at cost, electric energy from the undeveloped water power resources within and on the borders of your State.

For your information, I enclose copy of my letter of March 5th to W. Clyde Harer, Chairman of the Committee on Appropriations of the Pennsylvania House of Representatives, recommending an appropriation of \$35,000 for a survey to outline a Giant Power system intended finally to supply all industries, farms, and homes in this State with cheap and dependable electric energy.

In pursuing such a plan we must make certain that the abuses and blunders which grew out of the unrestrained selfish struggle in the field of transportation are not repeated. At the same time, as one means to our end, we must insure a fair chance for reasonable profit on private investments prudently made in good faith.

After eighteen years of study and work upon this problem, I have come confidently to expect the growth of a nation-wide interlocking power system. No small part of this future power development, especially water power development, will, I believe, be made by State and Municipal enterprise—some perhaps by national or even international undertakings. The nation is now constructing works for the installation of 480,000 water horse power at Muscle Shoals, Alabama, and vast projects are urgently pressed for development by the National Government on the Colorado, the Columbia and the St. Lawrence. You are now proposing State development for New York.

I look to see the scope of State enterprise in this field increase rather than diminish. Yet I do not expect that private enterprise, at least for many years to come, will be wholly excluded from the field, and especially not from the field of electric power generated from fuel.

Pennsylvania's power resources lie chiefly in her coal deposits. These have passed into private ownership, yet they remain, like all other private property, under the political control of the State. Having this legal status, they have always been and are now being fully shared through commerce with all sister states within practicable transportation distance.

The freedom of commerce among the several states, the unrestricted exchange across state lines of services, goods, and resources guaranteed by the Federal constitutions, is the strongest man-made basis of the prosperity of each State. This consideration applies not only to energy riding in a coal car, but equally to energy flowing over a wire, whether the burning of fuel or the falling of water was the source. Furthermore, really cheap power can not be supplied to consumers unless the burning coal and the flowing water contribute their energy to a common reservoir for the common supply of industries, farms, homes and railroads.

Such a system must transcend state lines, and is likely to become nation-wide. The new art of electric transmission is already so developed that the Giant Power system with which we are immediately concerned should not include all power producers and consumers in the northeastern section of the United States and should perhaps draw also upon resources of water power in Canada.

If this is so, then Pennsylvania should share its fuel power with Southern New York, and New York should share its water power with Western Pennsylvania. Therefore, I urge you most earnestly to provide, in planning the State owned system you have proposed, for delivering at the Pennsylvania line a due proportion of Niagara power to supply the needs of Western Pennsylvania. On the other hand, by the location of Giant Power stations near the coal mines, by saving the valuable by-products of the fuel consumed, by the development of water power, and by the electrification of railroads, I hope and expect that the power resources of Pennsylvania will be intensively developed, enormously increased, and their product greatly cheapened, not only for the people of Pennsylvania but also for the people of New Jersey and New York.

The negotiations already informally begun by you, Governor Silzer, and myself for the development, apportionment, and control of the water and power resources of the Delaware River illustrate most clearly that power is an interstate problem, both as to its origin and as to its distribution. In that connection I desire to urge you to consider most carefully the suit begun in the Supreme Court of the United States by your predecessor in the name of the State of New York, to annul the Federal Water Power Act.

That statute is the outgrowth of the conservation movement initiated by President Roosevelt, and especially of measures taken by him for safeguarding public rights in water power. In the initiation and application of these measures, I had the good fortune to enjoy his confidence and support and I was active in the fifteen years of controversy which bore fruit in the Federal Water Power Act of 1920.

This law embodies the ideal of the conservation of natural resources for the public interest to a degree greater than any other, with the possible exception of the National Forest laws. By it eighty-five per cent of the undeveloped water power resources of the nation were saved from monopoly and dedicated to the public welfare. It is not only equitable and workable, but it is accepted as such by the best opinion among water power experts, who recognize that one of its principal purposes is to promote development.

The Federal Water Power Law gives preference to States and municipalities which may desire to construct or take over and operate water power projects, and relieves them from all rental if they deliver power to consumers at cost, which I understand to be the purpose of your plan. It is especially adapted, therefore, to meet the needs and objects described in your message.

By proceeding under the Federal Water Power Act and by accepting the preference it gives to State enterprise over private enterprise, New York can initiate the new policy under the most favorable circumstances and without the delay inseparable from litigation, and can do so without jeopardizing the interests of other States, for it is true that by this Statute, and by it alone, the rights of the people of all the States in water power are now safeguarded. If the State of New York should attempt and unhappily succeed in overthrowing it, while safeguarding the rights of her own people, she would thereby strike down the people's rights in forty-seven other States which are not ready to undertake a State ownership policy at this time. I am sure that any such result is far from your intention.

Since therefore the Federal Water Power Law is specifically adapted to meet the present needs of the State of New York as well as to safeguard the interests of the other States, I respectfully urge on behalf of the people of Pennsylvania, and of other States as well, that you withdraw the suit begun by your predecessor and use the Federal Water Power Act as the sure and sufficient basis of the policy of State ownership which you have proposed. If you take that course, you will have the good wishes of the plain people throughout the nation for your success in this difficult undertaking. If not, you will put one of their most vital interests to the hazard of litigation, and actually destroy that interest in the event that your litigation should succeed.

I speak for the people of our whole Commonwealth when I say that Pennsylvania desires to live with New York, her sister State, on terms of the closest mutual helpfulness and consideration, I cannot, however, but regard with deep concern any movement which might be expected to interfere with such mutual helpfulness or lead to antagonism of any sort.

Sincerely yours,

(Signed) GIFFORD PINCHOT.

ENCLOSURE

Harrisburg, March 5, 1923.

Hon. W. Clyde Harer, House of Representatives, Harrisburg, Pa.:

DEAR MR. HARER.—I recommend that provision be made for an outline survey of the water and fuel resources available for Pennsylvania, and of the most practicable means for their full utilization for power development. Such a survey should point out the way to secure for all industries, farms, homes, and railroads in all parts of the Commonwealth an abundant supply of cheap electric energy while duly safeguarding existing investments in the electric industry.

The age just behind us was the age of transportation. It achieved the seeming miracle of bringing to every citizen's door goods from all the world at a cost of carriage incomparably lower than ever before. This is the age

of power, destined in like manner to bring to every citizen abundant and cheap energy and products of energy.

A superpower zone including all present and future central electric stations from Portland, Maine, to the City of Washington has already been planned in outline by the United States Geological Survey and approved by the President. Such a superpower zone is actually in operation in the Southern Appalachian region, connecting generating stations and distributing systems from Alabama to North Carolina, a distance of many hundred miles; and the practicable radius of transmission is being rapidly and constantly lengthened. Such interchange of power from large generating stations makes possible great economies in immediate operating costs and the conservation of great qualities of coal, a strictly limited resource.

Further and still greater conservation will be achieved by the electrification of railroads, the location of steam generating stations near the coal mines, and the utilization in them and in gas works by the by-products of coal now wasted—in a word by the creation of a Giant Power System based on the principles of quantity production, cheap service to the public, and fair and generous reward to the investors. For aiding and hastening this development, for safeguarding the rights of the public in it, and for avoiding such blunders as characterized the age of transportation, intelligent planning is necessary at the outset. This is the object of the proposed survey, for which a special appropriation of \$35,000 is suggested.

Sincerely yours,

(Signed) GIFFORD PINCHOT.

Governor Smith's Reply to Governor Pinchot

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, March 15, 1923.

Honorable Gifford Pinchot, Governor's Office, Harrisburg, Pa.:

MY DEAR GOVERNOR.—I am in receipt of your letter of March ninth. I have read it very carefully, also copy of your letter to Senator Harer.

My recent message on water power development of which you speak was written by me in the firm belief that the water power resources of the State capable of development for the generation of electrical energy belong to the State of New York. For years it has been our understanding that Federal control over navigable streams was only and solely for the purpose of regulating navigation. In other words, we believe that the bed of the stream is the property of the State and over it flows the water that generates the electrical energy.

I think I know public sentiment in the State of New York on the question of our rights to the possible power development of our navigable streams, and I am certain that I would receive small comfort in this State were I to take a position, for one moment, that we did not own these great water power resources. If that be so, they are the property of the State and should be preserved for the benefit of the people of the State and no one in public office is vested with the authority to abandon these essential rights. I do not believe that I should accept your suggestion that acting on behalf of the State of New York I withdraw the State's suit to test the constitutionality of the Federal Water Power Act for the following reasons:

1. The status of the State with respect to its water power resources must ultimately be determined by the court of last resort. The authority which shall control such water power must be known. Before this or any other state can embark upon any development, it must be satisfied as to where the authority and control of such development shall lie. Neither the state's capital nor private financial interest can proceed with safety until the place of such control is finally established. Litigation is now pending in different parts of the country involving questions presented by the State of New York,

and I would regard it as a misfortune if in the determination of these great principles the State of New York was not heard in court.

2. Section 7 of the Federal Water Power Act while stating that the State is entitled to preference in making application for Federal license where the state delivers water power to its people or to municipalities at cost, it must be remembered that the Federal license issued under such circumstances is for the term of fifty years only, and after that period the development will revert to the United States Government. It must further be remembered that the Federal Act does not make the granting of a license to the State obligatory but still leaves such question to the discretion of the Federal Government.

3. While the present Federal Act does not contemplate regulation of rates, it would quite naturally follow that in the event the State should relinquish its right in its water resources, then the Federal authorities will by some agency control and fix the rates and service. Thereby, current generated from the State's own resources will be available to the people of the State, consisting of the home consumer, the small manufacturer and the general industrial power users, only at a rate and upon conditions fixed by the Federal Government.

I agree with you that the time is probably not far off when there will be an interstate exchange of electrical energy; in which event of course the State of New York would be one unit. Nothing contained in or contemplated by the State's suit to test the constitutionality of the Federal Power Act need interfere with the eventual accomplishment of that purpose. The State of New York may ultimately determine that the people of the State of Pennsylvania, or for that matter of any other State, would be considered in the distribution of our electrical energy. When that happens, however, with New York's property, it should be done by New York and not by the Federal Government. We need no Federal assistance to promote mutual helpfulness and consideration between the states. I am unable to understand that a jealous guarding of the State's rights in this matter would lead in the slightest degree to the promotion of any antagonism as between the states.

After all is said and done, I think you will agree with me that in recent years there has been too much interference by the Federal Government with the affairs of the different states, and we have abundant evidence that violence has been done to the old time democratic theory of the rights of the states against Federal invasion, guaranteed by the Constitution.

Sincerely yours,

(Signed) ALFRED E. SMITH.

Statement by the Governor Upon Introduction of Annual Appropriation Bill

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, March 12, 1923.

My attention is called to the figures of the main Appropriation Bill introduced in both Houses of the Legislature this evening. No complete picture of the State's financial operations can be made from this particular bill as many appropriations will later be included in what we refer to as "Special Bills" and are as necessary for the maintenance of the Government of the State as is this particular bill, which purports to make provision for the support of Government. I will comment but briefly on the financial situation at this time as it is my intention, when the Legislature closes, to deal publicly from the platform with the whole financial situation of the State in such a way as to have it understood by people who are not familiar with technical terms. What I say will be broadcasted by radio so that the people in all parts of the State can hear from the Governor himself the explanation of the State's financial condition. Having that in mind, I will make this statement brief.

Last year, the total appropriations for every purpose were \$143,158,110.24. For purposes of fair comparison, \$10,000,000.00 must be deducted from this

amount because that was an emergency to meet the acute situation regarding coal, a small part of which was to be used for administration and the balance to be credited to the coal administrator's account as a revolving fund, should the situation become sufficiently acute to warrant the State in buying and distributing coal.

The total appropriations estimated at this time for this year will be in the neighborhood of \$149,000,000, making a difference in round figures of about \$16,000,000. In that \$16,000,000 will be included \$6,462,248.30 that should have been appropriated last year. When I say "should have been appropriated," I say it in the firm belief that the deficiencies that this sum is calculated to take care of were known and should have been taken into account when last year's appropriation bills were drawn.

The increase is further accounted for by statutory increases from which there can be no escape, as they are the normal annual increment in the following activities:

1. Contributions by the State to Teachers' Salaries.....	\$2,035,000
2. Contributions by the State to Normal Schools.....	112,240
3. Contributions to Academic Colleges.....	30,000
4. Contributions for Non-Resident Tuition.....	265,000
5. Contributions to the Schools for the Blind, Deaf and Dumb..	48,200

Added to this also must be the statutory increases provided for on a sliding scale by law throughout the institutions amounting to \$698,348, making in all a normal, regular, necessary statutory increase of \$3,188,788.

As part of the difference spoken of, there must be taken into consideration the direct appropriation from the current revenues of the State for new highway construction amounting to \$3,300,000. This item was not necessary last year because there was sufficient bond money left in the fund from the receipt of the sale of bonds to progress last year's highway improvements.

Institutional construction, including the elimination as far as it can be done of fire hazards, is this year \$2,890,705 more than last year. It might well be said that a considerable portion of this belongs in the aforesaid deficiency item because the Legislature of last year had knowledge of these needs and the appropriation was denied.

For the Soldiers' Memorial Hospital at Kings Park there must be added \$1,500,000, and for the encouragement of one of our chief industries, which is Dairying, there must be added \$500,000 for the Coliseum at the State Fair Grounds in Syracuse in order that this State may be the home of the National Dairy Exhibit for 1923.

This makes a total of \$8,190,705.

Included in the deficiency amounts is an item of \$2,500,000 for indemnities to the owners of slaughtered tubercular cattle. Not only have we been obliged this year to take up last year's debts, but in the interest of sound finance, we are preparing ahead of time a like amount to take care of next year. There can be no excuse at all for the Legislature of 1922 failing to make this appropriation.

Another item tending to make up the difference is the increase in Personal Service in departments and maintenance in departments as well as institutional maintenance. The Personal Service amounts to \$1,179,000. This is accounted for in part by the increased cost of re-establishing the Labor Department upon a basis of proper efficiency. It is so far behind in its work that the necessity for an immediate appropriation was made apparent to the Legislature in the last week by a report of the condition found therein by the newly appointed Industrial Commissioner.

Part of the Personal Service is made up by an item of \$154,630 to the Cornell College of Agriculture, which is to provide for the extension of the work made necessary by the completion of new buildings; \$64,505 is to the Conservation Commission for the return of Game Protectors, Forest Rangers and Fire Observers.

A large item of that Personal Service and Maintenance is to be found in the Department of Public Works. Because of a false idea of economy, the Canal is in such a condition that not only is it required that additional money

be appropriated to take care of it for the next fiscal year but a deficiency item of \$894,972 is immediately necessary in order that it be put in shape for operation when the season opens. The talk of economy in the operation of the Canal last year was really nothing more or less than the postponement of the State's obligation to keep it in proper running order.

Therefore, if we add together statutory increases, the extraordinary improvements, the tubercular cattle appropriation and the departmental and institutional increases, we have a grand total of \$18,413,493. Adding to that the deficiencies that should have been cared for last year, \$6,462,248, we have a grand total of \$24,876,741. In order that the comparison may be fair and that there be a thorough understanding of the situation, there should be deducted from that total \$5,646,890, which are extraordinary items of last year not required this year and are made up as follows:

1. Vehicular Tunnel to New Jersey.....	\$3, 500, 000
2. Straightening the Harlem River.....	1, 500, 000
3. Debt Service	645, 890

a constitutional amount required last year in excess of what must be provided this year. Deducting that from the grand total, we have a difference of \$19,229,851, which would indicate that so far as the total estimated appropriations this year are concerned, in view of statutory increases, in view of extraordinary appropriations, in view of deficiencies that were well known last year, the increase in the budget is easily explainable.

If the Legislature of this year pursued the policy of neglecting known appropriations, this total could be much lower but we would then not be making provision for the support of Government and would only find ourselves confronted with these delayed items one year from now.

We heard a great deal of talk last year about putting the Government of the State on a "Pay-As-You-Go" basis. The above figures do not indicate that that was done. They indicate the contrary, and the appropriation bills this year totaling close to \$150,000,000 will absolutely and positively establish and fix a "Pay-As-You-Go" policy. To my way of thinking, it is a good thing that the people of the State have all the facts and not be lulled into a temporary slumber by the belief that the cost of their Government is going down when in reality, by a process of deferring payment, it is going up. False economy brought about by postponing payment of known debts results in doubling up costs the next year if the obligations are met in full.

United States Senator Simeon W. Fess Communicates With Governor in Relation to Memorial to Congress Asking Modification of Volstead Act

UNITED STATES SENATE

Washington, D. C., March 17, 1923.

Honorable Alfred E. Smith, Governor of New York State, Albany, N. Y.:

MY DEAR GOVERNOR SMITH.—I have the letter from your Secretary under the direction of the Governor, enclosing the resolution of your General Assembly, memorializing Congress to modify the enforcement act to permit the use of beer and liquor wines. A communication from the Governor cannot be passed over lightly but should be given careful consideration.

There has been a well organized propaganda to secure a compromise on the beverage question. I do not think it a wise movement. My decision is not incidental but drawn from facts known to all who have followed the efforts to lessen the evils of the drink habit.

In the early history of the country the manufacture and sale of liquor was permitted almost without restriction, save the imposition of a nominal tax levied upon it as its proportionate part of the contribution to the maintenance of the government. The evils which grow out of the unrestrained use of intoxicating liquors gave rise to the first compromise upon this question.

The people sought to solve these abuses by providing a license under which the sale of such spirits could be controlled. In these early days the sales were made in the groceries and in the taverns throughout the various states of the Union. It was felt that this compromise should settle this question and that the evils would abate. Experience showed, however, that such was not the case. The number of these places increased at an astonishing rate. In many instances so-called taverns provided practically no sleeping accommodations or merely had sufficient accommodations of this character to obtain a license in the guise of a tavern. Liquors were sold in the groceries which were frequented by women and children. The scenes of drunkenness and debauchery around these places became so revolting that the social conscience of the people demanded that some remedy be provided. A further compromise was suggested. In many localities laws were enacted which provided that these taverns and groceries should not sell liquor to be drunk upon the premises. It was then felt that this compromise would definitely settle this issue. Experience proved the futility of the hope. It was found that liquors were taken into the home from these places and there consumed in the presence of the women and children with the result that the degradation of the home caused public sentiment to cry out against this system. A further compromise was suggested.

About this time the Civil War broke in all its fury. It was necessary to raise revenue to finance this war. Those who were engaged in the liquor business contended that the great problems which perplexed the government with reference to finance and the evils which confronted the people through the use of liquors in the home could be solved by levying a high license tax upon the business and limiting the privilege to certain persons who showed to the court or the license or excise boards, qualifications which would furnish some guarantee that the business would be carried on in a decent and orderly manner. The government in its dilemma, and the people in their perplexity accepted this compromise and as a result there was fastened upon the people of the United States the license system with which we are all familiar. It was argued in favor of this compromise that it would pay the debt of the nation; that it would remove the evils of liquor consumption in the home and provide for the sale of such beverages in places which were under the strict control and supervision of the officers of the government. It did not require a very long period of experimentation with this system for the people to become convinced that this method was as ineffective in suppressing these evils as had been its predecessors. The liquor interests soon became powerful, financially and politically, in fact so powerful did they become that it was only after great effort that the people were able to secure another compromise from their legislative bodies by which communities were granted the right to exercise the privilege of local option and in certain localities were enabled to vote out by the exercise of popular suffrage, the saloons, breweries and distilleries. It was contended by the liquor interests that this compromise surely would make America an Arcadia, because in those places where the sale of liquor was not wanted it could be prevented. But the terms of this compromise were not observed by the liquor dealers themselves.

The disregard of the law through the attempted introduction of liquor in local option territory by the liquor interests and the growing dissatisfaction among the people of other sections of the State with the evils of the saloon system produced another compromise. State-wide prohibition laws were enacted. It was insisted that this would forever settle this question in the United States. The liquor interests, however, in disregard of the expressed will of the people evidenced in state legislation, sought to frustrate these laws under the guise of the protection of the interstate commerce provision of the Federal Constitution. The people of these states are handicapped in the enforcement of the state prohibitory laws. A further fight was made which resulted in the passage by Congress of the Webb-Kenyon Law. This removed from intoxicating liquors when shipped into a state in violation of the laws of the state, its interstate commerce protection. Even this did not end the warfare. The people in the thirty-three states of the Union which had by state legislation divorced themselves from partnership with the liquor traffic were unwilling that this traffic should flourish in the nation with their sanction and approval. They were unwilling that the government should license and authorize a system productive of such great evil. Accordingly a resolution was introduced in

Congress providing for an amendment to the Constitution of the United States which would provide for the prohibition of the manufacture and sale of intoxicating liquors for beverage purposes. So responsive was this resolution to the will of the people that it received more than the necessary two-thirds vote of Congress in order to submit it to the States. It was ratified by the Legislature of the necessary three-fourths of the states within the remarkably short period of thirteen months. The evidence of popular approval did not stop with the ratification by the necessary three-fourths of the states but continued until the Legislatures of forty-six of the forty-eight states of the Union had ratified this as a national policy of government. In other words, ninety-two state legislative bodies, representing the people, have passed the necessary code to enforce it by more than a two-thirds vote.

The next Congress enacted the Willis-Campbell Bill, or Supplemental Act by more than a two-thirds majority. The whole history of the temperance movement in the United States from its inception until the adoption of the Eighteenth Amendment is replete with illustration after illustration of attempted compromise upon measures treating of the control of the liquor traffic. The patience of the people has been tried by compromises. The evils of this business are of such a character as to have convinced the American people, after an experimentation with every form of license, regulation or control which human ingenuity could devise, that it is a subject which cannot be regulated but must be annihilated. In view of this chapter in American history, covering practically three-fourths of a century, it is somewhat discomfiting to note the attitude of the state administration of New York.

The issue before the American people today upon this question is simply of law enforcement. To those who disapprove of this policy of government there remains the recourse which is always the right of an American citizen to seek the repeal of the amendment itself. To advocate a compromise upon the enforcement of a provision of the Constitution, written into that instrument by the representatives of the people of the Republic, is inconsistent with the principles upon which a democratic government rests. It is surprising to note a great state openly advocating the nullification of the Constitution of the United States. Some members of your Assembly profess to be opposed to the return of the saloon but suggest the legalizing of the sale of beer and wine and its distribution by some means which would allow its consumption in the home. The American people have not so far forgotten the history of their country in connection with this question as to fail to recall that it was the abuse under the system which permitted liquors to be dispensed at groceries and similar places, to be consumed off the premises, that led to the institution of the saloon under the license system. In the light of this experience the people will be slow to be persuaded of the wisdom of a policy of compromise in connection with the enforcement of the Eighteenth Amendment to the Constitution which seeks a return to the method of distribution tried and repudiated before the saloon system was established.

The sooner the people of the United States who believe in law and order both practice and preach observance to all laws, whether they meet with their approval or not, and respect the officers and agencies which the people have instituted for the enforcement of these laws, the sooner will the lawlessness which is the subject of much comment, cease. The prosperity and happiness of the American people can be assured only so long as law is respected and obeyed, and is not the subject in its enforcement of compromise, nullification or evasion. The organic law which in the Eighteenth Amendment forbids liquor for beverage purposes cannot be nullified by Congress changing from non-alcoholic to alcoholic content. I assure you that Congress will respect the overwhelming conviction of the people as expressed on your beer and wine proposal whenever the issue has been placed before them.

The people of this country are not against prohibition but are for it. The 2.75 beer compromise was offered to Ohio, a great industrial state, and was defeated by over 189,000. California in the last election adopted a state code in harmony with the Federal act by a majority of over 30,000, when two years before such a measure was defeated by 65,000. These beer compromise measures have been defeated by referendum votes in Michigan by 207,000 majority, in Washington, Oregon, Colorado, Arizona and other states. Straw votes taken among the wets may show a sentiment for beer, but real votes in

which all the people participate, show that the people sustain the law in effective form. The reason for these results is not far to seek.

The survey made by two of the great wet papers of the nation several months ago disclosed, by their own estimate, that the consumption of beverage intoxicants had decreased 70 per cent. The survey made by others formerly unfriendly to prohibition indicates that the number of regular drinkers has decreased from over 20,000,000 to 2,500,000. The selfish rich and well-to-do are the ones who are now making the outcry against prohibition. Their supply of liquor is running low and they are irritated at the inconvenience in getting more or the fact that the liquor may be poisoned. Both the well-to-do and those of moderate means will find it beneficial in every way to obey the law and secure the advantage of total abstinence.

There can be no compromise with lawlessness. As long as the Eighteenth Amendment is in the Constitution it should be enforced. When the people do not want it they can repeal it. It is dangerous doctrine to advocate a compromise on law enforcement. Practically all of the states have adopted a state standard in enforcement similar to or more stringent than that contained in the National Act. To advise the Federal Government to compromise when the states have already set as high or a higher standard is indefensible and inconsistent on the part of those who have advocated state rights in order to protect liquor traffic before we had national prohibition.

Lawlessness has decreased in practically every state in the Union. In one state, Connecticut, where comparison of official figures for the last three wet years and the first three dry years have been made public, the decreased ratio of crime to the population means over 40,000 fewer arrests in the state, 29,144 fewer county jail commitments and 30,268 fewer commitments to state prison and other penal institutions during the three dry years than would have been the case had the average ratio per 100,000 of the population during the three wet years continued during the three dry years.

The following facts should be decisive.

In Massachusetts, the rate of arrests on all charges was 5,068 per 100,000 of population in 1917. Prohibition cut this to 3,872 per 100,000 in 1921.

In Boston, arrests for intoxication fell from 100.2 per 100,000 of the population in 1917 to 49.2 in 1922. In the same city, arrests for offenses against chastity dropped from 432 per 100,000 in 1917 to 248 in 1921.

In Massachusetts, if the ratios of 1916 of crime to population had continued in 1921, there would have been 46,966 more arrests for drunkenness in 1921 than actually were made. The ratio of arrests was increasing through the years until prohibition came and cut the ratio in half, at least.

The penal population of Massachusetts has fallen from 153 per 100,000 in 1916 to 90 in 1922.

Arizona, 13 towns and cities reporting, had 53 per cent fewer arrests for drunkenness in 1922 than in 1921 and 70 per cent fewer arrests for crimes related to drink.

California reports that arrests for drunkenness in the cities of the state were 52 per cent less in 1922 than in 1917.

In Wilmington, Delaware, drunkenness arrests decreased 81 per cent for the average of the first two dry years compared with the last two wet years.

Crimes of violence fell equally in number. Cook County, Illinois, reported a decrease of 43 per cent in the number of murders in 1921 as compared with 1917; 22 per cent decrease in burglaries reported, and 12 per cent in robberies reported, comparing these same years.

Montana, taking the average of the last four wet and the last four dry years, finds the following decreases in the yearly average number of the crimes named: murders, 45 per cent; burglaries, 32 per cent; robberies, 37 per cent. The homicide rates in Montana were 17.7 in 1916; 18.2 in 1917; 11.1 in 1918; 8.1 in 1921.

In New York, penal commitments decreased 33 per cent comparing the average of the three dry years with the average of twelve wet years.

Missouri found her prison population in 1922 was 15 per cent less than in 1917. With these facts before a member of the House or Senate he must respectfully decline to respect your prayer.

(Signed)

S. D. FESS.

The Governor Replies to Senator Fess

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 26th, 1923.

Honorable Simeon D. Fess, United States Senator, Washington, D. C.:

MY DEAR SENATOR FESS.—I acknowledge receipt of your letter of the 17th, to which I have given careful consideration. The intellectual intolerance of those like yourself who favor theoretical total abstinence instead of genuine temperance is well illustrated in your communication.

The Legislature of the State of New York, consisting of one Democratic and one Republican House, exercises its traditional right to memorialize Congress favoring the amendment of a federal statute.

The amendment asked is nothing more nor less than to define the term "intoxicating beverages" as used in the Eighteenth Amendment in a way deemed by the Legislature of the State of New York to be reasonable in order to permit the sale under stringent restrictions of beverages which, in point of fact, are deemed not intoxicating. Because the view of the Legislature differs from your own, you write to me in comment upon the memorial that the sole issue is one of law enforcement with the distinct imputation that the Legislature is advocating the policy of nonenforcement of the law of the land.

Speaking, I believe, for the State which I have the honor to represent, nothing could be further from the facts.

The Eighteenth Amendment is today the law of the land, and no one suggests, least of all the Legislature of this State or myself, that it should be violated. None the less, the history of the way this amendment was ratified in the State of New York is illuminating as reflecting the widespread public opinion of New York.

The resolution giving the consent of the State of New York to the Eighteenth Amendment passed the Senate of this State in 1919 by the bare constitutional majority and then only after a Republican party caucus, notwithstanding the fact that the approval of the impending prohibition amendment was not a part of either party platform or a subject of discussion during the campaign of 1918 on the part of the Republican party but was treated in the Democratic platform as a matter that should be submitted to the electorate for their decision before the ratification took place by the Legislature.

It is notoriously the fact that men elected to the Senate of the State of New York, pledged by their constituency against ratification, obeyed the party caucus and betrayed the constituency. However, the Senate ratified it in the Spring of 1919.

In 1920, the same Senate and an Assembly, both overwhelmingly Republican, enacted the so-called 2.75% beer and wine bill, which not only abolished the saloon but by severe restrictions limited the sale of wine and beer for home consumption and in hotels and restaurants of a type to be approved by the State. This bill I signed. It became a nullity after the decision of the United States Supreme Court that the word "concurrent" in the Eighteenth Amendment referred only to concurrence in enforcement of the supporting legislation.

In 1922, the Democratic Convention adopted the following platform plank:

"Recognizing that the interpretation of the Eighteenth Amendment to the Federal Constitution expressed in the Volstead Act has resulted in widespread contempt and violation of the law, in illegal traffic in liquors and in official corruption, we insist upon Congress enacting such modification of the Volstead Act as shall legalize, subject to the approval of the people of the State of New York, the use of beer and light wines, under such careful restrictions, as were imposed by the law passed in New York in 1920."

I call your particular attention to the words "subject to the approval of the people of the State of New York."

That platform plank was discussed in every part of our State and the Democratic party was successful in the election, my own majority being in the neighborhood of 380,000. If prohibition and the Volstead Act are the all-important issues that you claim them to be, it is evident that a majority of all the people in the State of New York favor a rational amendment to the

Volstead Act that will permit the use of beer and light wines of a small alcoholic content which are, in fact, nonintoxicating beverages.

Let us for a moment discuss the language of the Eighteenth Amendment. Surely you do not contend that the Eighteenth Amendment prohibits the sale of alcoholic drinks. It does prohibit the sale of intoxicating drinks for beverage purposes. Therefore, the question naturally arises what intoxicates? A great many doctors of unquestionable standing in our community have certified that lager beer with an alcoholic content of 2.75% is not intoxicating.

I cannot agree with you that this whole controversy is a question of law enforcement. That does not enter into it. Nothing in the Democratic platform, nothing in my message to the Legislature, nothing in any public utterance that I ever made, any place, either inside or outside of the State of New York, indicates the slightest suggestion against the enforcement of existing law. On the contrary, we specifically suggest the amendment of existing law. Certainly, that is the right of a State as it is the right of an individual. If, as you say, Congress will respect the over-whelming conviction of the people, certainly a State whose history indicates that her people favor beer and wine has the right to express its opinion.

We do not ask laxity in enforcement. We ask for a reasonable congressional interpretation of what constitutes an intoxicating beverage. I cannot speak for other States, in answer to your question about the decrease of lawlessness, but I can speak for the State of New York. And when the Democratic party in its platform said that the Volstead Act resulted in widespread contempt and violation of the law, as far as the State of New York is concerned, that is true.

We have had illegal traffic in liquors and official corruption. The latter is clearly proven by the brevity of the official life of many that represent the Government in the enforcement of the Volstead Act, and their summary removal or transfer from this district is usually under the shadow of suspicion. The moving pictures depicting the weekly news show a fleet of rum boats lying outside of the three mile limit. The smuggling of whisky across the Canadian border has become a notorious abuse.

People who for years were used to a harmless glass of beer have been put upon a whiskey diet. The Federal and the State Government with all their power are unable to stop the abuse. It is a matter of common knowledge that in a state as big as New York the police force required for proper enforcement would be entirely beyond the means of the people.

I am impressed by the figures that you give of the vote in your own State on 2.75% beer, as well as the vote of the states of Michigan and California. Why not settle the question for all time and provide for that vote in every state, with Congress fixing 2.75% as a maximum alcoholic content and allowing the popular vote to fix the minimum? That surely is democratic government. It is the voice of the people themselves and if that is not the essence of Democracy, then we had better turn the key in the door and go out of business.

There cannot be said to be anything partisan in this question so far as this state is concerned. The resolution sent to you was adopted by a Democratic Senate and concurred in by a Republican Assembly with the slight amendment that I sign my name to it and that I forward it. Ordinarily the communication would have come from the Legislature as have all memorials in the past petitioning Congress, but the Republican party, in its characteristic attitude of attempting to carry water on both shoulders, wanted to maintain its rural vote, which is dry, and attempt to cater to the metropolitan vote that for the most part is wet, and conceived the foolish notion that by having the Governor transmit the resolution, instead of sending it themselves that they would embarrass the Executive.

You may have noticed recently in the papers a statement coming from me about bar rails. I think that on my record you will join with the people who know me well and do me the credit of believing that I have enough common sense and experience of life to understand that the saloon is and ought to be a defunct institution in this country. In an informal meeting with the newspaper men, after several facetious remarks had been made about the promised introduction of a 3% beer bill, I joined with the reporters themselves in joking about

it, and took occasion myself to speak facetiously of the bar rail. My remark was intended for gentlemen with a sense of humor, and not for use by an intolerant and prejudiced adversary, spying for a chance, to misrepresent the real meaning of a casual jest. There was present one such man. It is the only occasion in my public life on which I have ever known a newspaper man to violate the ethics of his profession.

I am thankful to you for your letter. Nothing is more healthy for the cause of democratic government than frank, plain, clear and open discussion of every problem that affects the liberties of our people; because, after all, the roll will be called and everybody will abide by the decision, and that is the salvation of democratic government.

Very sincerely yours,

(Signed) ALFRED E. SMITH.

The Governor Communicates With the Adjutant General in Relation to the Condition of the National Guard

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, March 19, 1923.

Brigadier-General Charles W. Berry, The Adjutant-General, State of New York, Albany, N. Y.:

MY DEAR GENERAL.—My attention has been called to the fact that of those serving in the National Guard of this State only a small number continue their service after a first enlistment.

This seems to be a reflection on the methods that have been used to render such duty attractive. Many of our armories contain more and better equipment for amusement and recreation than is found in high priced clubs and with these advantages and the opportunities for good fellowship and lifelong friendships, the service should be such that there would be no vacancies, except for the age limit.

Every man, who lives in and enjoys the privileges of this country, has a moral obligation resting upon him to make some personal sacrifice, to the end that the traditions, which serve as the foundation of our government, may be strengthened and stabilized.

Civic virtue can reach no higher level than is obtained by those who, when necessity calls, offer themselves for service in the armies or navy of this nation.

Such service is greatly enhanced in value if supplemented by training obtained in our National Guard, and it is our duty not only to provide such opportunities, but to make it as attractive as possible.

Will you kindly take up this matter and see what can be done to remedy this condition.

Very truly yours,

(Signed) ALFRED E. SMITH.

The Governor Replies to Statement by Speaker Machold Regarding Proposed Legislation for the Reorganization of State Government

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, March 21, 1923.

Following a conference of Republican members of the Assembly yesterday afternoon, Speaker Machold gave out a statement defining the Republican position on legislation that has already passed the Senate and is before the

various committees of the Assembly. Mr. Machold in his statement spoke of the "specious attempts on the part of the Governor to foist upon the State legislation that would endanger the welfare and prosperity of the people." Among the bills considered, three of them were party pledges contained in the Democratic State platform and were recommended by me to the Legislature in my first annual message. They have been discussed and talked about in this State since 1915. They were first proposed in a Republican Constitutional Convention, and have had the approval of such well-known and eminent Republicans as Elihu Root, George W. Wickersham, Adelbert Moot of Buffalo, Martin Saxe, Judge A. T. Clearwater, Addison B. Colvin, Henry L. Stimson, John Lord O'Brien, John Allen Hamilton, Jacob Gould Sherman, Dwight Marvin, Frank L. Gannett, Ansley Wilcox, Lawson Purdy, Darwin R. James, Jr., and William J. Wallin.

What are they? And in what way do they endanger the welfare and prosperity of the people?

The first one is the so-called executive budget. This the Speaker refers to as "revolutionary and dangerous." I have read carefully all of his statements on the executive budget, and I am prepared to make the statement without reserve of any kind that the Speaker has never read the bill. If he had, he could not make so many misstatements of fact about it. For instance, he says the Legislature may decrease but never increase the amounts contained therein. That statement is not true. The executive budget bill contains no such provisions. He says that it proposes a delegation of legislative power to the Executive. That statement is not true. Had the Speaker read the bill providing for the executive budget system, he would find that it is identical with the national budget system in all its essential principles. The only real difference is that under the proposed state budget, the Governor may veto parts of items, and I think it would be a good thing at this time for me to call the Speaker's attention to the widespread national demand that there be given to President Harding something to say about the reckless "pork barrel" items that were sent to him by the national congress. By legislation at Washington, subsequent to the adoption of the national budget, a greater power was given to the President over the allocation of funds for personal service than is contemplated in our State proposal. So that while the Republican party in the nation is claiming great credit for its achievements in the direction of economy under a national budget system, we find the Republican Speaker of the Assembly in our own State making the statement that the same provision to safeguard the expenditure of money in New York State is "revolutionary and dangerous." I can see no danger in it except to those who desire to get their hands on the State's money.

Not only has this form of budget been adopted by the Federal Government but by nearly every large State in the Union, and it is a matter of record beyond dispute that many of the States copied it from the original report of the Reconstruction Commission in our own State. New York State can make little boast of progress when we consider the fact that Pennsylvania now has the executive budget before it upon recommendation of its Governor, and approved by the Commission on State Reorganization of that State and practically unanimously endorsed by every Chamber of Commerce, Board of Trade and Civic Organization in the State of Pennsylvania.

I would call the Speaker's attention to the fact that recently by constitutional amendment the counties of Nassau and Westchester were permitted by the State to modernize their county form of government. The Westchester bill has not yet been introduced, but I am reliably informed that a tentative charter for Westchester County already printed contains an executive budget with more drastic provisions than provided for in the proposed State executive budget. Under this charter, the President of the County presents a budget to the Board of Supervisors and they are denied the right to make any increases in it. I would further call his attention to the bill already introduced by Assemblyman McWhinney and Senator Thompson, providing for the new form of County government for Nassau County in which he will find provision for an executive budget identical with the proposed State Budget that he regards as "revolutionary and dangerous." It must be within the knowledge of the

Speaker that the so-called Davenport Committee investigating taxation throughout the town and County governments of this State, after three years of investigation have just recommended executive budget systems for the local governments of this State.

Let me devote a minute or two to the substitutes the Speaker puts forth for a real executive budget. Nobody around the Capitol knows better than he that they have never functioned and they cannot function under the present system. Governor Whitman instituted an executive budget by act of the Legislature. It was the subject of ridicule throughout the City of Albany. Governor Miller attempted one under the name of the Board of Estimate and Control and it is a matter of history that in its first year it submitted no budget; and let Speaker Machold, who can do it, explain to the people what became of the budget that was recommended in its second year.

"This 'revolutionary and dangerous' proposal is a perfectly simple thing. It places upon the Governor the responsibility for preparing a financial program for the State, leaving to the Legislature thereafter freedom to deal with it, subject however to the veto power of the executive. It will undoubtedly promote economy, simplify the financial management of the State, and give to all the people what a great corporation would expect from its president—a proper and thorough understanding of its financial condition.

Before I leave this subject, just let me say that there are twenty-six Democratic members of the Senate, and thirty-five senators voted for this "dangerous and revolutionary proposal."

The second proposal recommended by me and marked for slaughter by the conference is the four-year term for the Governor, and if this were not a matter of such serious consequence to the people of the State of New York, the Speaker's objection set forth in his statement would constitute a joke, capable of challenging the wit of Will Rogers himself. The Speaker says that his objection is based upon the point that if the Governor is satisfactory to the people, he will be reelected. According to that, in view of recent history neither Governor Miller nor myself was any good.

The real point about it is that the trend of progressive opinion throughout the country has been to enlarge the term of the Governor. A Republican legislature in this State a short time after the enactment of the Greater New York Charter increased the term of the Mayor of New York City from two to four years and gave as their reason the very one that I give for a four-year term for the Governor.

It may have been all right years ago when the business of the State was comparatively small, when her problems were very few; but no governor, even though he may bring himself to the point of wrecking his own health, can put into force and effect any of his policies for the state in two years.

Let me point out something else that I think desirable from the standpoint of the State and that is that under the proposed four-year term, the Governor will be elected in a year when no presidential election is taking place. Everybody favors that except those who would see partisan advantage in the other system. The mind and the attention of the people should be centered upon one election in order to get the best results for the state. I am afraid that the Republican majority had this in mind and the four year shoe pinched the foot that was sensitive to partisan advantage rather than to the good of the state. This bill this year received eleven Republican votes in the Senate and the principle involved had the approval of Governor Miller after he left office.

The third amendment to which the Speaker refers is that which provides for the reduction in the number of elective officers and in the number of State Departments, and the establishment of nineteen departments with heads appointed by the Governor and constituting his cabinet. The speaker proposes to butcher this proposal which was drafted by the most eminent constitutional lawyers in the State, including Secretary of State Hughes. In the first place, the Speaker says that there are really only twenty departments in the Government at the present time and that the other scattered, independent Boards, Commissions and Agencies are really not departments at all. In this connection, I would call the Speaker's attention to the fact that I have just sent him thirty-two bills consolidating over one hundred of these Agencies and Com-

missions of the State Government which, in the aggregate, spend many millions of dollars every year and which now function without any reference whatever either to the Governor or to the Legislature.

The Speaker then contradicts himself by saying that the proposed consolidation does not go far enough and he proposes to consolidate the three proposed Departments of Charities, Mental Hygiene and Correction into a single Department. The Speaker knows perfectly well that the consolidation of all of the charitable institutions, prisons, hospitals and the inspection of private institutions in a single Department is opposed by every charitable and religious organization of every kind and denomination in the State of New York. He could not possibly make this suggestion with any sincerity. Such a suggestion could only be made for the purpose of laying down the amendment so that it would not possibly be accepted by the people. The amendments to this bill which the Speaker actually proposes simply tear the bill to pieces. While they seem to establish nineteen departments, a provision is also added to the effect that the Legislature may, at any time, increase or decrease or change the number of departments. Thus we would be back where we were before. There will be no consolidation of departments with such a joker in the bill. Moreover, the Speaker has also amended the bill so that the heads of departments need not be appointed by the Governor. This will destroy all responsibility. It is perfectly clear that the bill in its revised form is only a shadow from which all the substance has been taken away. It would be infinitely better to leave the Constitution as it is rather than make any such change.

Before leaving this subject, it may be worth while calling the Speaker's attention to the fact that President Harding has just approved the report of a Special Commission which advocates the consolidation of the scattered agencies in the Federal Government and the reduction in the number of cabinet officers. This proposal is along identically the same lines as that which was made in this State excepting that no amendment to the Federal Constitution was required to bring about the changes.

The State Reconstruction Program was approved by an overwhelming majority at the last Election and is endorsed by practically every newspaper and organization in the State.

In taking this action the Speaker, who after all is only a single legislator, is taking a great responsibility upon himself and for his party. I do not believe that his party stands behind him in his present attitude. The practical politicians may see some satisfaction for themselves in the present system, but there can be none for the rank and file of the people of the State who have to pay the bills. There cannot be and there should not be any politics in these proposed amendments. They all spell progress. They are in progressive step with the thought of to-day in government, and it seems a great pity that the Empire State must lag behind in order to satisfy the political whim of an accidental Republican majority in one branch of the Legislature.

I hope the people of this State will take the two statements and place them side by side, and spell out of them the warning that they will only get the kind of government that after all they are themselves satisfied with, and awake to a realization that progress can only be made by their insistent demands upon their representatives in the Assembly that they give attention to an enlightened program that admits of no sensible argument in opposition.

The Governor Replies to Letter from S. Standwood Menken in Relation to the Repeal of So-Called "Lusk Laws"

STATE OF NEW YORK — EXECUTIVE CHAMBER

March 23, 1923.

S. Stanwood Menken, Esq., 52 William Street, New York City:

MY DEAR MR. MENKEN.—I acknowledge your letter of March fifteenth. While I appreciate the patriotic spirit which prompts your letter, I am compelled to say to you in frankness that I disagree entirely with your position.

I think both the Lusk Laws are bad and should be repealed. I disagree not only with your conclusions, but with your statements of fact. My experience tells me that it is not true, as you say, "that the foreign born do not grasp the spirit of our institutions." You seem to think that because 500,000 copies of the foreign press are sold in the City of New York, that it follows that the readers of this large number of papers do not understand or appreciate our institutions. Nothing could be further from the real fact.

Likewise, you state by inference that all the persons belonging to Socialistic groups are necessarily disloyal. While I do not agree with the principles of these people, I certainly do not agree with you that because our beliefs differ from theirs, they must necessarily be disloyal.

Nor do I think you fairly state the purport of the Lusk Laws. The Teachers' License Bill, Section 555a of the Education Law, provides, among other things, that "a teacher must satisfy the Board of Regents that he is loyal and obedient to the Government of this State and of the United States, and no such certificate shall be issued to any citizen who has advocated a form of government other than the Government of the United States or of this State." It also adds to the disqualified class those who advocate change by force, violence or unlawful means. This law comes squarely within the class of legislation which you yourself say should be condemned, namely, "unnecessary limitation and regulation of the action of the individual;" it leaves it to a regulatory body to decide who is or who is not loyal and obedient; it disqualifies any one who honestly believes in a form of government other than the one we have and who advocates it in a perfectly lawful way.

Similarly section 79 of the Education Law is a wholly unnecessary restriction. Anyone who would do any of the things forbidden by that section would be guilty of a crime and could be prosecuted. There is not the slightest reason why a regulatory body of the State should be set up to pass upon such questions as what does and does not constitute unlawful means and what does and does not constitute the teaching of the doctrine that organized government should be overthrown. Of course, if you could assume an omniscient censor, whose decisions on these questions would be accepted by everybody, the problem would be a very simple one. But you and the other advocates of the Lusk bills make no allowance for human difference of opinion, for the right of every citizen to advocate his opinions lawfully and honestly, and most of all for the fact that real political progress comes from the expression and exchange of conflicting opinions.

I am, as you suggest, familiar with the evidence produced before the Joint Legislative Committee and I am also familiar with the opinions expressed by Henry A. Wise Wood and others who believe in State censorship. There is nothing either in them or in your suggestion that the repeal of the Lusk Laws would be regarded as a victory by "Reds" and "Parlor Pinks," which in the slightest leads me to change my view that the so-called Lusk Laws are subversive of the fundamental principles of American democracy and freedom.

Very sincerely yours,

(Signed)

ALFRED E. SMITH.

Land Board at Suggestion of Governor Smith Rescinds Action of Predecessors in Abandoning Claim to Lands in Favor of Santa Clara Lumber Company

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, March 26th, 1923.

At the suggestion of Governor Smith the State Land Board has taken steps to recover for the State 585 acres of land in Franklin County, a tract constituting one of the beauty spots of the Adirondack wilderness and a timber growth of tremendous value.

To this end the Board has rescinded the action of its predecessor in abandoning all claim on behalf of the State to this forest land in favor of the Santa Clara Lumber Company. The abandonment was attempted by the former State Land Board on December 20, 1922, and about the same time, the Governor is advised, a stipulation was made permitting the discontinuance of two court actions involving the State's title to such land and known as the Ampersand Land cases against the Santa Clara Lumber Company.

Notice has been served upon the lumber company to vacate the land in question before April 1 next pursuant to Section 50 of the Conservation Law which vests in the Conservation Commission the care, custody and control of State lands. In this notice the company is advised that the State claims ownership of the tract by virtue of a tax deed dated October 31, 1884, and duly recorded in Franklin County as a result of a tax sale held by the State Comptroller in 1881.

The forest land in question has been a subject of litigation for the past twenty-five years, records in the office of Attorney General Carl Sherman indicate. The story of this litigation is summarized in the notice to vacate forwarded the lumber company by the Conservation Commission:

"In the year 1894, the State Comptroller published a notice, pursuant to statute, which contained a description of said lands and gave notice that the State held title thereto and that from and after the expiration of the time stated in such notice, such lands would be deemed to be in the actual possession of the Comptroller, which possession would be deemed to continue until the Comptroller had been dispossessed by the judgment of a court of competent jurisdiction.

"Thereafter, and in the year 1897, Ferris J. Meigs started an action in ejectment against James A. Roberts, as Comptroller, respecting said lands, alleging that the defendant was and had been for two years in possession of said lands.

"The Court of Appeals held that the action was barred as it was not brought in time and the statute of limitations applied (162 N. Y. 371).

"Notwithstanding the allegations of the complaint that the defendant was and had been for two years in possession of said lands, thereby estopping himself from any inconsistent claim, I am informed that the plaintiff thereafter and between the decision of the Appellate Division and the decision of the Court of Appeals wrongfully and unlawfully entered upon said lands and committed acts of trespass thereon, wrongfully and unlawfully cut and removed trees therefrom and wrongfully and unlawfully erected buildings thereon.

"The publication of said notice by the State Comptroller had the effect of putting the Comptroller in possession of said lands for and on behalf of the People of the State of New York and such possession thereupon became and continued to be lawful until the State Comptroller might be dispossessed by a judgment of a court of competent jurisdiction. The plaintiff in said action sought to eject the Comptroller and the court held that such ejectment could not be accomplished.

"The Comptroller, representing the People of the State of New York, as the result of such advertisement and allegations of the plaintiff and the decision of the Court of Appeals in Meigs vs. Roberts, 162 N. Y. 371, is still in lawful possession of said lands notwithstanding the wrongful and unlawful entry by said Ferris J. Meigs on certain parts or portions thereof.

"I am informed that said Ferris J. Meigs gave a deed to you, dated June 23, 1904, and recorded December 7, 1904, in Liber 123 of Deeds, page 136, Franklin County, describing said lands and that officers, agents, servants and employees of your company have wrongfully and unlawfully entered on said lands, cut and removed trees therefrom and occupied buildings thereon.

"Section 50 of the Conservation Law vests in the Conservation Commission, care, custody and control of said lands, which are so actually possessed by the State Comptroller for and on behalf of the People of the State of New York and I hereby demand that you remove or cause to be removed from said lands all articles of personal property and that you vacate said lands and cause the officers, agents, servants and employees of your company to remove from said lands on or before April 1, 1923."

Records in the case disclose that the abandonment of the land was attempted under Section 19 of the Public Lands Law as amended by Chapter 647, Laws of 1921, although Attorney General Carl Sherman did not find filed with the Commissioners of the Land Office an opinion of the Attorney General authorizing such abandonment and the evidence upon which such an opinion should be based. Mr. Sherman advised the Governor that he has in his possession, however, an unsigned copy of an opinion of the Attorney General, dated December 13, 1922, with evidence attached. He points out that in his judgment the procedure of the Land Board was irregular and unlawful.

"I do not find filed with the Land Board," he said "the original opinion of the Attorney General with the evidence upon which it is based, as required by section 19 of the Public Lands Law above quoted. This is jurisdictional. Its absence alone makes void the Commission's act. I also find now presented to my Title Bureau deeds from the Santa Clara Lumber Company of a large part of the 585 $\frac{3}{8}$ acres in controversy leaving the Santa Clara Lumber Company in asserted title 290 $\frac{1}{4}$ acres. This is evidential of a compromise by the Land Board rather than of the abandonment of a hopeless claim under section 19 of the Public Lands Law. The Land Board under section 19 of the Public Lands Law is not given authority to make a compromise.

"There may be good reasons why these cases should be discontinued and the claim to 290 $\frac{1}{4}$ acres of this land abandoned. It may later appear that it would be a good bargain to accept 390 $\frac{1}{2}$ acres and let the rest go, providing the Legislature will and can constitutionally authorize such a compromise. Still for the present the orderly procedure laid down in the Conservation Law must be carefully followed and final action taken, if at all, in open court in accordance with the Conservation Law.

"The State Conservation Commissioner in these cases protests that he was not informed of the contemplated action of the Commissioners of the Land Office in abandoning the claim, and the Deputy Attorney-General who had been in charge of these cases likewise protests against their action as taken without notice to him.

"I therefore beg to advise you that any attempt to enforce a claim to these lands under the resolution of the Commissioners of the Land Office will be resisted and the questions involved determined by the courts as the Constitution required.

"It seems that in view of the favorable action taken by the courts in upholding the State whenever it has been defendant, it would be good policy for the Conservation Commissioner to take possession of these lands, permitting the Lumber Company to immediately remove its personal possessions therefrom."

The Attorney General advised the Governor that he would not consent to a discontinuance of the two Ampersand Pond cases "until it shall appear that the resolution of abandonment passed on December 20, 1922, was both constitutional and lawful."

Statement by the Governor on the Celebration of Boys' Week

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, April 9, 1923.

Mr. Joseph H. Wade, Chairman, Boys' Day in Schools, Public School No. 44, 176th St. & Prospect Ave., New York City:

DEAR MR. WADE.—The Celebration of Boys' Week, to be held April 29th to May 5th, 1923, meets with my hearty approval as I deem it fitting that those who will take up the reins of government and business in the future should have an opportunity of bringing to the attention of our people the many beneficent things which the youths of our State are doing, both as individuals and as members of organizations.

They have frequently demonstrated their ability in connection with the work of furthering various worthy causes and have, by reason of their enthusiasm, instilled in the minds of older workers the fact that perseverance alone assures

success. In many instances they are becoming identified with the leading men of our large industries and as citizens of standing they will themselves achieve ultimate success in these very enterprises.

To the boys, I would say: "Think well, act well and have a high regard for those who have your interest at heart and who are desirous of having you succeed in life and you will never regret it."

Very sincerely yours,
(Signed) ALFRED E. SMITH.

In the Matter of the Sale of the Sands Point Light Station Reservation on Long Island—Governor Smith Requests Postponement of Contemplated Sale

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, April 23, 1923.

Honorable Herbert Hoover, Secretary of Commerce, Washington, D. C.:

DEAR MR. SECRETARY.—My attention has been called to the proposed sale by the Department of Commerce, at public auction on May 2, 1923, of the Sands Point Light Station Reservation on the north side of Long Island, in the County of Nassau, State of New York.

I am informed that the land comprising this Reservation was given to the United States by the State of New York in 1808; but that the deed conveying the property does not contain the provision, included in many later similar deeds, that the land shall revert to the State of New York in case it ceases to be used for governmental purposes by the United States.

It has been suggested to me that this property is well located and adapted for park purposes and that it ought to be acquired by the State of New York.

In the short time remaining before the date of the proposed sale, it is of course impossible for me to have the necessary investigation made and take any steps toward the acquisition of this property. It is necessary, therefore, for me to ask that the sale of the Sands Point Light Reservation by the Department of Commerce be delayed for a reasonable time, say six months, in order that I may have the matter investigated and take any steps that may so seem advisable looking toward the acquisition of the property by the State of New York.

Very respectfully yours,
(Signed) ALFRED E. SMITH.

The Secretary of Commerce Complies With Governor's Request

DEPARTMENT OF COMMERCE — OFFICE OF THE SECRETARY

Washington, April 27, 1923.

Honorable Alfred E. Smith, Governor of New York, Albany, N. Y.:

DEAR GOVERNOR SMITH.—1. I am in receipt of your letter of April 23, 1923, in which you make a suggestion that the property owned by the United States and known as the Sands Point Lighthouse Reservation on the north side of Long Island, New York, now being offered for sale, might be desirable for park purposes and should be acquired by the State of New York. In view of your interest in this matter and the possibilities which this suggestion might lead to, I am pleased to grant your request that the sale of the reservation be postponed for a period of six months.

2. With reference to your special remarks about the deed to the premises in question, I may say that your understanding is correct that the deed by which the United States originally acquired this property did not contain any provision that the land should revert to the State of New York in case it should cease to be used for governmental purposes.

Yours faithfully,
(Signed) HERBERT HOOVER,
Secretary of Commerce.

The Governor Withdraws Objection to Sale

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, October 18, 1923.

Honorable Herbert C. Hoover, Secretary of Commerce, Washington, D. C.:

MY DEAR MR. SECRETARY.—Sometime ago I wrote you with reference to the transfer of certain abandoned Federal lighthouse sites to the State of New York for recreation purposes. As I understand it there will shortly be a conference with one of your representatives to discuss these matters and to see whether a satisfactory arrangement can be entered into between the Federal Government and the State as to these abandoned lighthouses and as to the granting of land under water by the State to the Federal Government. It is also my understanding that at this conference the City of New York will bring up various lighthouse matters.

In the meantime, I am writing to withdraw the protest which I made last spring against the public sale of the lighthouse at Sands Point on Long Island. You will recall that at that time I wrote you stating we were very anxious to obtain this lighthouse in connection with our State park program. We also planned for the acquisition of the adjoining beach in connection with this program. Since then the persons who have advised me on the park program have conferred with local people in the vicinity of Sands Point and have agreed that a much better location for a public park would be at O'Gorman's Island near Port Washington. Moreover, I have recently been reliably informed that the public records at Washington indicate that the State was reimbursed for this property at the time of its transfer to the Federal Government. If this be true and you have such information at your command, this constitutes an additional reason why I withdraw my objection to the sale at this time. This conclusion was also reached because of difficulties which were found to stand in the way of acquiring the beach adjoining the Sands Point lighthouse, and partly because it is our intention in connection with the park program to disturb owners of homes as little as possible. The residents of Sands Point have raised a fund of \$25,000 towards the purchase of park land at O'Gorman's Island to show their interest in the park development.

After considering the matter carefully, I have concluded that the O'Gorman's Island tract is better suited in every way for park purposes and I am, therefore, writing you to withdraw my objection to the public sale of the Sands Point lighthouse.

Sincerely yours,
(Signed) ALFRED E. SMITH.

Statement by the Governor at Close of Legislative Session of 1923

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, May 5, 1923.

The record of the Republican majority in the Assembly constitutes a setback to the theory of representative popular government. During the month of October, 1922, two men both of whom had served a term as Governor of the State, debated from Niagara Falls to Montauk Point a well defined and well

set-up program of State betterment. The people on Election Day by an overwhelming majority rendered the verdict. The Republicans in the Assembly set aside the verdict and for no known reason aside from a desire to cling to the reactionary policies of government that were so severely repudiated at the polls by the people themselves. They did what they humanly could to turn popular government into a government of power and privilege for the few as against the interests of the many. Their actions were unquestionably dictated from the outside. Men without the responsibility of public office and who in all probability could not themselves be elected to any office dictated a program of destruction of popular legislation that meant gains for humanity. If permitted to continue, selfish partisan politics can destroy the essence and wither the fundamentals of democratic representative government. When the voice of the people so clearly expressed and so well defined becomes ineffective, privilege and the power that privilege can exercise finds itself in the front row and in control to so great a degree that the plain citizen on the sidewalk has his own government so far removed from him that it is ineffectual in carrying out the popular will or the popular desire.

I have come to this conclusion not alone from the defeat of these measures but from the signal failure on the part of the Republican majority to discuss any of them upon their real merits. They set themselves against them in advance to serve selfish interests that oppose even the principle involved without talking at all about the legislation proposed to give it force and effect. A well thought out and well studied program for the betterment of the government that must in the last analysis be passed upon by the people themselves went down to defeat with a practical challenge to the electorate of the State that the Republicans were unwilling even to permit them, the people themselves, to pass upon it.

Under the force of public opinion, the Assembly leaders yielded on the question of reorganizing and consolidating the various boards, bureaus and commissions of the State into twenty departments of government, and thereafter gave an exhibition of hypocrisy to which the attention of the people should be called. A well thought out and definite program of statutory consolidation that could be made immediately effective and bring relief from the present intolerable conditions was compromised with to such an extent that only the relatively unimportant measures that mean nothing of saving to the State were passed, while those that would have brought instant relief went down to their death at the behest of some politician who had something to gain by continuing them.

By its failure to act upon the proposal to develop the water power of the State, the Republican majority in effect has served notice on the people that they are entirely willing that Federal control step in and give this great resource to private capital. In the face of the awful experience of last winter during coal shortage, great water power, capable of developing electrical energy to light and heat the State, will continue to run to waste until given over at some later date for private exploitation and private profit.

After all the discussion of last fall about the Workmen's Compensation Act, the Republican majority again lined itself up with the private interests and protected the right of the insurance company to bargain with the injured man and injured woman when the wolf of hunger is knocking at the door.

A well thought out and carefully prepared bill for the preservation of life and limb on the highways from reckless automobile driving went down to defeat after the ridiculous proposal was made that citizens of the State living outside of cities be exempted entirely from any regulation—a clear-cut case of privilege and immunity to a certain few as against the interests of the many.

The Republicans carefully protected the patronage of the Department of Farms and Markets and left that broken down, disorganized and disjointed machine, aiming at nothing and accomplishing less, to continue on its way.

A greater grant of power to the people to propose amendments to their own law went down to defeat because of Republican distrust of popular government. The forces of reaction won a signal victory in defeating the proposal to give the people themselves the control of their own nominations for public office, when the bill to restore Direct Primaries, passed by the Democratic Senate, went down to defeat in the Republican Assembly.

Adequate school facilities so that the children in the country sections of the State may get the same benefits from our educational system accorded to children in cities passed in the Democratic Senate and the relief was postponed by the Republican majority in the Assembly.

No better illustration could be given of a complete subserviency to corporate wealth on the part of the Republican majority than the disposal by them of all the bills intended to regulate public utility corporations throughout the State. The Democratic bill for relief to the great City of New York was caught in the whirlpool of reactionary service to the public utility corporations generally. New York was denied her relief for the simple reason that Republican representatives from up-state cities were unwilling that New York be helped unless the same help was extended to the municipalities that they represent. Throughout the State public service corporations operating under emergency relief extended during and immediately following the war period want to remain in control of these temporary benefits and see the way of doing it by continuing State control. Higher rates for public service corporations generally remain safeguarded by the continuance of the provision in the Public Service Law that took from municipalities control over their own contracts and their own franchise agreements—a service to big business and to corporate interests that they have no reason to expect.

I am appending hereto, in detail, a summary of all my recommendations with a history of just what happened to them. At a later date and after I have disposed of the pending measures, I promise to broadcast, by means of the radio, so it may be heard throughout the State, a complete summary of the State's financial condition with an explanation in detail, understandable to every citizen so far as I am able to make it so, of every dollar of public money appropriated and what it was appropriated for.

STATE OF NEW YORK — EXECUTIVE CHAMBER

ALBANY, May 5, 1923.

The Record of the Legislature on Governor Smith's Program as outlined in his Messages

The legislation is divided into three groups:

- I. Reorganization of the State government.
- II. Preservation of Political, Individual, State and Local Rights.
- III. Welfare Legislation.

GROUP I — REORGANIZATION OF THE STATE GOVERNMENT

LEGISLATION PROPOSED	Senate action	Assembly action
Constitutional amendment to consolidate 187 agencies of State government into 19 departments and to establish a short ballot.	Passed.....	Amended in conference with Governor to 20 departments and passed. Must be repassed in 1924 and submitted to the people.
Constitutional amendment to create an executive budget fixing on Governor responsibility for financial policy of the State.	Passed.....	Defeated.
Constitutional amendment to lengthen Governor's term to four years.	Passed.....	Defeated.
Reorganization of Department of Agriculture.	Passed	Defeated
Map of highways as proposed by Commissioner of Highways.	Passed.....	Passed as amended
Legislation to consolidate by statute over 100 departments and State agencies:		
Abolishing Motion Picture Censorship Commission.	Passed.....	Defeated.
Abolishing West Side Commission.	Passed.....	Passed.
Abolishing State and Federal Commission on Taxation.	Passed.....	Passed.
Abolishing Armory Commission..	Passed.....	Defeated.
Abolishing Board of Geographic Names.	Passed.....	Passed.
Consolidation of public works agencies — Superintendent of Public Buildings, Commissioner of Highways, Superintendent of Public Works.	Passed.....	Passed.
Geneva Agricultural Station to Cornell University.	Passed.....	Passed.
Tuberculosis Hospital for Incipient Tuberculosis at Raybrook to Department of Health.	Passed.....	Passed.

GROUP I—REORGANIZATION OF THE STATE GOVERNMENT—
Concluded

LEGISLATION PROPOSED	Senate action	Assembly action
Other consolidations of health activities.	Passed.....	Defeated.
Secondary agricultural and vocational schools put under Department of Education — Nautical school transferred to Education Department.	Passed.....	Passed.
Consolidations of other educational activities.	Passed.....	Defeated.
Consolidation of agencies dealing with prisoners.	Passed.....	Defeated.
All other consolidations proposed.	Passed.....	Defeated.

GROUP II—PRESERVATION OF POLITICAL, INDIVIDUAL, STATE
AND LOCAL RIGHTS

LEGISLATION PROPOSED	Senate action	Assembly action
Restoring to localities their rights over their agreements with public utilities corporations.	Passed.....	Defeated.
Legislation giving New York city the right to own, construct, operate and regulate its transit facilities.	Passed.....	Defeated by a well-thought-out plan to retain state supervision over contracts and franchise agreements made between municipalities through-out the State and public service corporations.
Giving New York city right to name two commissioners to the Port Authority.	Passed.....	Defeated.
Home rule amendment submitted to Legislature for second time.	Passed.....	Passed.
Direct primaries.....	(To be voted on at Fall Election)	Defeated.
Bi-partisan election boards.....	Passed.....	Defeated.
Corrupt Practice Act.....	Passed.....	Defeated.
Permitting the people to initiate constitutional amendments.	Passed.....	Defeated.
Repealing motion picture censorship.	Passed.....	Defeated.
Repealing law requiring teachers to submit to loyalty test.	Passed.....	Passed.
Repealing law requiring license and supervision for private schools.	Passed.....	Passed.
Petition to Congress to liberalize the Volstead Act.	Passed.....	Passed.

GROUP II—PRESERVATION OF POLITICAL, INDIVIDUAL, STATE
AND LOCAL RIGHTS—*Concluded*

LEGISLATION PROPOSED	Senate action	Assembly action
Proposing referendum on amendments to federal constitution.	Passed.....	Defeated.
Commission to investigate defects in the law and its administration.	Passed.....	Passed.
Legislation permitting water power development by the State	Passed.....	Defeated.
Appropriation to permit Attorney-General to defend State's rights to water power resources.	Passed.....	Passed.

GROUP III — WELFARE LEGISLATION

LEGISLATION PROPOSED	Senate action	Assembly action
Restoring Labor Department to efficient operation by means of adequate appropriations.	Passed.....	Passed.
Amendments to Workmen's Compensation Law:		
To prevent direct settlements between companies and injured workmen.	Passed.....	Defeated.
Reduction of non-compensated waiting period.	Passed.....	Defeated.
Other amendments to strengthen this law.	Passed.....	Defeated.
Establishing wage boards to fix living wage for women and minors in industry.	Passed.....	Died in Rules Committee.
Establishing a forty-eight-hour week for women and minors in industry.	Passed.....	Died in Rules Committee.
Act to permit State to avail itself of Federal subsidy for maternity and infant welfare.	Passed.....	Passed.
State aid for public health work in rural counties.	Passed.....	Passed.
Extending system of Health Department laboratories.	Passed.....	Passed.
Betterment of rural education system.	Passed.....	Defeated.
State aid for special classes in public schools.	Passed.....	Passed.
Authorization of bond issue of \$50,000,000 for construction of State institutions.	Passed.....	Passed.
Appropriations to decrease fire hazards in State institutions.	Passed.....	Passed.
Amendments to child welfare laws extending their operation.	Passed.....	Passed.

GROUP III—WELFARE LEGISLATION—*Concluded*

LEGISLATION PROPOSED	Senate action	Assembly action
State subsidy to counties doing child welfare work.	Passed.....	Defeated.
Establishing a Housing Board....	Passed.....	Passed.
Extending tax exemption and emergency rent laws.	Passed.....	Passed.
Exemption of incomes \$5,000 or less from State tax.	Abandoned because of abnormal deficiencies in appropriations made last year.	Defeated.
State bonus to soldiers.....	Passed.....	Passed.
Establishing military memorial hospital.	Passed.....	Passed.
Revising automobile licensing and regulations.	Passed.....	Defeated.
Establishing State system of parks	Passed.....	Passed.
Establishing a Conservation Fund.	Passed.....	Passed.
Permitting unappropriated State lands to be sold.	Passed.....	Passed.
Human labor not a commodity...	Passed.....	Defeated.

APPROPRIATION BILLS SIGNED BY GOVERNOR SMITH IN 1923 BY
CHAPTER NUMBER AND TITLECHAP-
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4	Coliseum, State fair grounds.....	\$500,000 00
54	Gipsy moth prevention.....	150,000 00
55	Expenses, Labor Department.....	150,000 00
56	Commission, Delaware River.....	10,000 00
99	Highways, maintenance and repairs.....	8,000,000 00
101	Highways, contributions to counties.....	2,356,190 00
102	Highways, contributions to towns.....	2,580,000 00
104	Highways, rural post roads, state's share.....	5,000,000 00
105	Highways, State and county roads construction.....	3,000,000 00
143	Highway, American Legion camp.....	150,000 00
144	Kings Park Hospital unit.....	1,500,000 00
146	Grain terminal, Oswego.....	1,307,000 00
201	Indemnities, tubercular cattle.....	2,500,000 00
225	Annual appropriation bill.....	111,411,439 35
244	Soldiers relief.....	10,000 00
279	Ulysses S. Grant, tablet in capitol.....	500 00
280	Indemnities, tubercular cattle.....	2,500,000 00
282	Land for military camp, Peekskill.....	135,500 00
283	Troy and Cohoes bridge.....	60,000 00
326	Veterans relief.....	1,000,000 00
329	New York-New Jersey vehicular tunnel.....	2,000,000 00
335	Highway, State fair grounds.....	70,000 00
338	Highways, maintenance and repair.....	1,000,000 00
342	Port of New York Authority.....	100,000 00
343	Estate of Judge Arnon L. Squires.....	1,666 66
344	Approach Congress street bridge.....	25,000 00
345	Estate of Judge Bartow S. Weeks.....	9,077 32
346	Attorney-General, defending rights, etc.....	75,000 00
347	Survey of bridges on improved highways.....	15,000 00

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348	State Teachers College, building.....	\$75,000 00
407	State police, pensions.....	5,000 00
450	Supplemental appropriation bill.....	6,292,372 78
574	Crops, Hudson river valley.....	16,800 00
575	Commission to investigate defects in the law.....	15,000 00
576	River road highway, Onondaga county.....	15,000 00
577	Drill hall at Geneseo.....	30,000 00
578	Capitol improvements.....	62,500 00
579	Land improvements west of capitol.....	10,000 00
580	Fruit exhibition, New York city.....	10,000 00
581	Coal tipples, Ithaca and Watkins.....	10,500 00
582	Estate of Judge George W. Cole.....	7,500 00
583	Commission to examine general laws.....	10,000 00
584	Guards in prison and reformatories.....	94,060 00
585	Watkins Glen reservation improvements.....	94,100 00
586	Commission to examine military laws.....	15,000 00
587	Dairy exhibit, National Dairy Show.....	10,000 00
600	Attorney General, fraudulent practices, etc.....	100,000 00
614	Capital fund, Napanoch.....	5,000 00
638	Health Department, laboratory service.....	25,000 00
646	Syracuse School for Mental Defectives, fire protection....	30,000 00
668	Charitable institutions, increased compensation.....	200,000 00
681	Reimburse Morse Dry Dock and Repair Co.....	565 00
682	Retaining wall village of Belmont.....	75,000 00
685	Inlet Shinnecock bay, Southampton.....	15,000 00
686	Commission, salt water bays.....	25,000 00
687	New York State Historical Association, survey and report.	5,000 00
688	Schenectady-Scotia bridge.....	150,000 00
689	Spanish American war records.....	10,000 00
690	Commission on Indian affairs.....	1,500 00
691	Canisteo river improvements, Canisteo.....	50,000 00
692	Reimburse Rockland county.....	5,848 47
693	Development of State parks.....	850,000 00
694	Department of Architecture, housing.....	10,000 00
695	Myron Sulzberger, services.....	1,000 00
696	Ranger school at Wanakena.....	200,000 00
697	Canisteo river improvements, Hornell.....	200,000 00
719	Teachers college and normal schools, salaries.....	4,650 00
741	Appellate Division, Third Department.....	2,700 00
800	John A. Slade, Saratoga.....	1,000 00
801	Society for Home Study, Saratoga.....	1,600 00
842	Cohoes armory.....	5,000 00
843	Health Department, maternity and infancy.....	76,000 00
844	Highways, Kings and Queens counties.....	300,000 00
854	Suppression of cedar rust.....	25,000 00
873	Grain terminal, Troy.....	300,000 00
881	State hospitals, increased compensation.....	650,000 00
900	Highway bridge, Poughkeepsie.....	200,000 00
902	State police, barracks.....	480,200 00
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		\$156,394,269 58

Statement by the Governor on Citizens' Military Training Camps

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, June 9, 1923.

The Regular Army and the National Guard of the various States, while essential to National Defense, cannot be depended upon alone should our Country be again drawn into a great emergency. The U. S. Reserve Corps

is organized with this thought in mind. It is a body of nearly 80,000 officers throughout the United States, all of whom have had service in the World War. It is a splendid body of men, who in time of danger could be mobilized at once to lead a great National Army to back up the relatively small Regular and Guard force. As time goes on, however, we shall not always have this splendid nucleus of soldierly leaders for our armed forces. The supply must be kept up and this is furnished by the CIVILIAN MILITARY TRAINING CAMPS, at Plattsburg, and other points throughout our land. Here for one month each summer, young men are submitting themselves for training, to qualify for commissions in the Reserve Corps.

If fathers and mothers of young men between 17 and 24 realized the wonderful benefits to the youth of this month's experience they would insist upon their sons' attendance. Not conducted upon the intensive, rigorous lines necessary in the haste of war days, but including half a day's recreation and athletic activities, the camps offer an ideal vacation, absolutely free of charge, where the young man will be built up physically, mentally, morally, while learning to brush elbows with the future leaders of this Nation in the common task of preparing themselves to defend their Country whenever the need may arise.

Having recently invited attention to the importance of the National Guard in the scheme of National Defense, I desire to take this occasion to draw the attention of our citizens to another link in the chain of ADEQUATE PREPAREDNESS, and to recommend these CAMPS to the consideration of parents and of eligible young men uncertain of the employment of their time this summer.

(Signed) ALFRED E. SMITH.

Statement by the Governor in Reply to Article by William Jennings Bryan

Albany, June 11, 1923.

The New York Times has requested me to answer William Jennings Bryan's article in its edition of Sunday, June 10th, wherein Mr. Bryan undertook to reply to five questions submitted to him by that newspaper.

Mr. Bryan shows throughout his answers to the questions asked by the New York Times, that he has completely missed the point stressed in my memorandum on the repeal of the Mullan-Gage enforcement law of this State.

The first question he is asked is, "Will prohibition be a leading issue in the next Democratic Convention?" Running true to form, he uses a thousand words in replying and says nothing.

No living person could answer the second question "What strength will the wets and drys be able to command?" Mr. Bryan attempts it and says less than he did about the first question.

Mr. Bryan could answer the third question, "Do you believe prohibition will continue to be an issue in national politics" by saying that it never has been an issue and the question of repealing the Eighteenth Amendment probably never will be; but it is quite possible that a sane and sensible definition of what constitutes an intoxicating beverage might be a prominent issue.

The fourth question, "What effect has Governor Smith's action on the Cuvillier bill had on the national situation?" Mr. Bryan answers by making reference to "King Alcohol" and to woman suffrage.

When he answers the fifth question, "What of his (meaning my) assertion of states' rights in connection with his action?", the Great Commoner rises to the heights of absurdity. According to Mr. Bryan, there is apparently no such thing as states' rights. If that is not a fair inference to take from his remarks, one must take the only other possible, and that is, that Mr. Bryan himself does not understand what states' rights mean. For instance, he asks

in effect whether New York ever showed any interest in the right of any other state to protect its citizens in their right to discard alcoholic liquor? That question lacks the elements of common sense. Does Mr. Bryan suppose for a moment that New York should send any policeman out to Kansas to enforce the laws of Kansas?

He speaks of the Sixteenth Amendment providing for the right of the federal government to collect an income tax and asks whether any Governor asserted the state's right to protest against it. Certainly, this State made no opposition to that for the reason that it was approved and ratified by the State of New York. Had Congress enacted a law requiring the State of New York to collect the federal income tax or compelling the State itself to punish people for violation of any of its provisions, there would arise an entirely different question. It would be at that point that the question of states' rights would enter the controversy.

He speaks about the Seventeenth Amendment which provides for the direct election of United States Senators by the people instead of by the Legislature, and he asks the foolish question, "Did New York State protest against that interference with its right?" There was no interference with the rights of the State in that instance. The fact is that the State of New York petitioned the Congress of the United States to pass such an amendment and submit it to the State. When it was finally passed, the State ratified it. An entirely different question would arise if Congress by federal statute had attempted to tell the State of New York how the election should be conducted or who would be permitted to vote at such an election. There again a question of States' Rights would arise.

He says the Nineteenth Amendment conferred the franchise upon the women of New York whether or not the State wanted it, and asks another foolish question, "Did the State protest against that interference with its rights?" It certainly did not, because before Congress ever submitted any such question the State itself by amendment to its own constitution enfranchised its women. However, had the Congress of the United States, after the passage of the Nineteenth Amendment, undertaken to tell the State what particular class of women were to vote and what age they were obliged to attain before they were admitted to the franchise, we would have the question of states' rights.

Likewise the State of New York raises no question about the Eighteenth Amendment. The fact is the State ratified it. The question raised has reference only to the law enacted by Congress sustaining it.

Mr. Bryan forgets entirely the history of New York State when he speaks about the election of Governor Hughes in 1906 on a platform which he claims declared in favor of surrender by the State to the federal government of the regulation of railroads within the State. The history of the 1906 election shows that the entire Democratic state ticket was elected with the exception of the candidate for Governor, and I do not have to tell anyone why that happened.

Mr. Bryan is a good deal older man than I am. He was a candidate for Member of Congress from the State of Nebraska on an anti-prohibiting ticket a good many years before I was old enough to vote. He served a term in Congress and he was for a time Secretary of State, and he has had more opportunities to study the federal government and its operation than I have had and he knows everything I say is right, but he belongs in the class of fanatical dries about whom I spoke in my recent memorandum, who will never admit anything. When a fanatic begins to acknowledge the truth, his cause is lost.

Mr. Bryan's narrow reasoning power on this particular subject puts him in the position of misunderstanding entirely the great point at issue. There are fanatical wets and there are fanatical dries and there is a great mass of citizens between the two who are just as tired of the wets as they are of the dries and see a possible and constructive solution of this question on a common sense basis. They can not be overlooked. They are law-abiding citizens and

respecters of the constitution and they contain among their ranks men of standing and prominence in every walk of life.

Laws regulating the personal conduct of the individual have only been successful when they have paralleled a Divine Commandment. People will suffer regulation of their conduct outside of the commandments when it can be shown to them that such regulation is for the protection of the health of their neighbors. As far as strong liquor is concerned, there may enter into this a reasonable contention that its abolition might tend to promote the public health generally, but that can not be said about liquors of low alcoholic content. It is mainly because the people are unable to understand upon what theory their personal habits are regulated as to the use of beverages they regard as non-intoxicating that it is extremely difficult to get the respect for the law that all law must have to be successful.

The inherent dishonesty of the Volstead Act tends to promote dishonesty in its enforcement.

We have come to a queer pass in the history of the country when a State or its Executive or for that matter its humblest citizen is to be held up to ridicule because he suggests that an act of Congress be amended or altered.

Mr. Bryan knows as well as I do that the Volstead Act is a dishonest and hypocritical interpretation of the Eighteenth Amendment. He knows as well as I do that the fanatical drys in control of Congress wrote that law to accomplish their narrow and bigoted purpose and not to give honest expression to a constitutional amendment.

If Mr. Bryan's reasoning is to be followed to its logical conclusion, three-quarters of one per cent of alcohol in a beverage intoxicates. Nobody with an ounce of brains believes that. That much alcohol might well be discovered in a lump of sugar but narrow-minded men must of necessity follow narrow views and it is that same narrow-mindedness which makes them intolerant of the opinion of others on any question no matter how well founded.

I speak as the Chief Executive of a great State which through its representatives in the Senate and Assembly by a practically unanimous vote at the last session of the Legislature requested the Congress of the United States to amend the Volstead Act in order that we may have a more reasonable interpretation of what constitutes an intoxicating beverage.

Mr. Bryan in effect says that everybody seeking amendment to the Volstead Act represents a liquor interest. Does he deliberately make this charge against the Legislature of the State of New York and its millions of people whom that Legislature represents?

Mr. Bryan speaks for himself alone and while he is an eloquent gentleman with a wonderful God-given gift of oratory, he will have to travel some to get any sound-minded person to believe that we are attempting to interfere with the Constitution of the United States when we ask Congress to amend the Volstead Act.

Mr. Bryan throughout the article speaks about my candidacy for public office. Unlike himself, I am not a candidate. When I have been, in the past, I have usually been selected by the people. But in Mr. Bryan's case a wise and discriminating electorate usually takes care to see that Mr. Bryan stays at home.

Statement by the Governor — Death of Doctor Hermann M. Biggs, State Commissioner of Health

June 28, 1923.

It is with profound regret that I heard of the death of State Commissioner of Health Hermann M. Biggs. Since 1913 he has carefully and diligently applied himself to the all important governmental function—the preservation of the public health. His death is a distinct loss to the State in a most important branch of its service. In the expression of my regret, I feel that I am joined by the citizens of the State generally.

In Relation to Action by the State to Test Constitutionality of Federal Water Power Act

July 15, 1923.

The Attorney General, the State Engineer and their Counsel submitted to-day to the Governor their report on the status of the case against the Federal Government begun by the State to contest the constitutionality of the Federal Water Power Act, wherein the Federal Government asserted its right to control or lease the use of water for power purposes on navigable streams within the State. The suit was begun during the administration of Governor Miller. Early in Governor Smith's administration a Committee consisting of Attorney General Carl Sherman, State Engineer Dwight B. La Du, Deputy Attorney General Edward G. Griffin and Charles A. Collin and John Godfrey Saxe, Counsel, was appointed on behalf of the Water Power Commission of the State of New York to look into the matter and to report as to what procedure should be followed to protect fully the rights of the State of New York in the water power on navigable streams and border waters of the State. Conferences were held in Washington which were attended by the foregoing Committee and Hon. Hubert Work, Secretary of the Interior, Hon. Henry C. Wallace, Secretary of Agriculture, and the following members of the Federal Power Commission: Hon. O. C. Merrill, Executive Secretary, Col. William Kelly, Chief Engineer, Major Lewis W. Call, Chief Counsel, appearing also for the Solicitor General, and Mr. J. F. Lawson, Assistant Attorney. The Committee Report in which all of the members join is accompanied by the minutes of this conference. The report shows that while New York has not suffered as yet from Federal encroachment on her water powers and that while there is no immediate danger of such encroachment, the State cannot and should not adopt a dog-in-the-manger attitude towards this question. The State cannot continue to refuse to develop her own water power and also refuse to allow any one else to do it. The State should adopt at once a comprehensive plan of State development, ownership and control over its water powers to the end that the people themselves may receive the benefits of these God-given resources.

During the last session of the Legislature, a comprehensive Water Power Bill for State ownership, development and control was introduced and passed through the Democratic Senate, only to be defeated in the Republican Assembly. The Republican Party must bear the burden of holding up this needed legislation.

In part, the report says: "For all practical purposes in the immediate future, the pending suit against the Federal officials has accomplished the objects for which it was brought. The acceptance by the defendants, in their answer, of the leading propositions constituting the basis of the complaint, and the full and frank confirmation thereof at this conference between the representatives of the Federal and State Commissions have apparently settled the principal propositions for which the State of New York has contended, and which the Federal Power Commission had previously seemed unwilling to accept. The disavowal by the Federal Power Commission of any intention to interfere with power developments in connection with the Barge Canal, and the expression of willingness to co-operate with the State and the International Joint Commission in State development of the power possibilities of the Niagara and St. Lawrence Rivers, without claiming a proprietary right on the part of the Federal Government to share in profits therefrom, has now cleared the way, so far as the Federal Government is concerned, for power developments on those boundary streams by virtue of the concerted action of the State, the Federal Power Commission and the International Joint Commission.

We fully concur in Your Excellency's message to the Legislature, dated March 5, 1923, that New York's water power "must be developed in accordance with the enlightened thought of today, by the State itself, under State ownership and State control, to the end that all of the people may be able to realize the individual benefit which should flow to them from their own resources and their own property." We fully concur with you that the next step to be taken is appropriate State legislation to carry out this policy,

which would mean the immediate development by the State of the undeveloped water power available on the Niagara and St. Lawrence." We believe that the absence of such a statute jeopardizes the rights of the State in its relations with the Federal Government.

New York is in a position to-day to own and control all its water power development upon its inland and border streams. How long she can maintain that position depends wholly upon her own disposition, by appropriate enabling legislation, to make use of them. If the State is not able to obtain from its own legislature a grant of favorable legislation, it makes little difference whether it is the Federal Commission or the State Commission which licenses the State's power to private interests. In either case, the water power of the State will be out of the hands of the people of New York, who really own it. The people, who are deeply interested in the development of New York's water power, have reason to be more apprehensive of opposition within the State to needed legislation authorizing State development of water power, than it has of a possible refusal by the Federal Government to execute a formal consent to the State's plans after such legislation is obtained and the State's plans are from time to time formulated and presented to the Federal Government.

We therefore respectfully recommend:

1. That we do not commence the taking of testimony in the present suit at the present time, but, with the permission of the United States Supreme Court, permit the suit to stand along for the present, unless and until the Federal Power Commission should change its present conciliatory position;

2. That the State of New York, at the earliest possible moment, enact the statute for state development, recommended in your message of March 5, 1923, so that the rights of New York may not be jeopardized and the development of its water power delayed because of the absence of such a statute;

3. That the State Water Power Commission continue in close touch with the Federal Power Commission, and endeavor to harmonize from time to time, any conflicting claims which may arise, to the end that the development of the water power resources of the State may be accelerated;

4. That during the coming session of Congress, Federal bills relating to water power be carefully scrutinized, and that the state be represented at any and all Committee hearings in respect to any measures which may affect the rights of New York.

(Signed) Yours Respectfully,
CARL SHERMAN,
DWIGHT B. LA DU,
EDWARD G. GRIFFIN,
CHARLES A. COLLIN,
JOHN GODFREY SAXE."

Report of Conferees Representing New York State Water Power Commission at Conference With Federal Power Commission

OFFICE OF THE ATTORNEY GENERAL — THE CAPITOL

Albany, July 16, 1923.

To the Governor, The Capitol, Albany, N. Y.:

On behalf of the Water Power Commission of this State, we beg to report that we recently had a conference at Washington with the Federal Power Commission, pursuant to section 613 of the State Conservation Law, providing that our Commission should co-operate with any authorities of the Federal Government in an endeavor to harmonize any conflicting claims of the State and Federal Governments to control over the leasing or licensing of the use of waters for power purposes, to the end that the water power resources of the State may be accelerated. This conference has resulted, to a great extent, in

a conciliation of views of the two Commissions as to their respective jurisdiction over the licensing of water power projects, and we deem the matter to be of sufficient importance to call for this formal report, in writing, to you. We file with you herewith the Minutes of the Conference.

In order to cover the subject fully, we shall divide our report chronologically into the following subdivisions:

1. The situation prior to the enactment of the Federal Water Power Act on June 10, 1920 (41 Stat. L. 1063);
2. The Federal Water Power Act;
3. The suit of the State of New York, in the United States Supreme Court, against the Federal Power Commission and the Attorney General of the United States;
4. The answer filed by those defendants in that litigation;
5. The Conference;
6. Conclusion and recommendations.

I. THE SITUATION PRIOR TO THE ENACTMENT OF THE FEDERAL WATER POWER ACT.

The United States, and the various member States, for many years, have exercised *joint* jurisdiction over navigable streams within the limits of the respective States. The State exercises such jurisdiction because of its proprietary rights; and the proposition is long-established that the authority of a member-State over navigable waters within its boundaries is plenary, subject only to such action as Congress may take in the execution of its powers under Article I, section 8, of the United States Constitution conferring power on Congress to regulate commerce among the several States, and with foreign nations. Conversely, the proposition is also long-established that this power of Congress to regulate commerce is complete in itself, and may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. But this power of Congress is solely for the purpose of regulating commerce, and bestows no power on Congress to give original authority to anyone whatever to utilize the waters of a member State for the development of water power. The State having proprietary rights in navigable waters within its boundaries is primarily the "franchise-giving" or "licensing" authority. The United States having at least a veto power under its above described authority is the "consenting" authority. Both must concur. For many years prior to the enactment of the Federal Water Power Act, this *joint* control over navigable waters was well settled, and any State, municipality, corporation or individual desiring to institute any project in a navigable stream was required to obtain licenses, permits or consents from both Governments.

II. THE FEDERAL WATER POWER ACT.

The Federal Water Power Act deals primarily with water power rather than navigation, and if the Federal Power Commission attempted to apply the provisions of the Act, in all their length and breadth, to water power development in navigable streams within the boundaries of member States, there would undoubtedly be an invasion of State rights. The fundamental question as to the Act is how it will be applied. To explain. It first must be particularly noted that the Act defines a "State" as "a State admitted to the Union (*i. e.*, a member State) the District of Columbia, and any organized Territory of the United States." It defines "navigable waters" as "those parts of streams or other bodies of waters, over which Congress has jurisdiction, under its authority to regulate commerce with foreign nations and among the several States," etc. Congress, in enacting this Act, was not dealing exclusively with the development of water power in navigable streams within the boundaries of member States. It was dealing also and to a large extent with water power in navigable streams within the District of Columbia and in Territories and also with water power upon lands and waters which the United States *itself owned* within the boundaries of member States. Congress indisputably had full constitutional authority to legislate, without limit, as to water power in the District of Columbia and Territories and also as to any and all properties or waters *owned by the United States* within the boundaries of member States. It also

had a certain and wholly distinct constitutional authority to legislate as to *navigable waters* within the boundaries of member States. In respect to the District of Columbia and the Territories and also in respect to any and all properties and waters owned by the United States within the boundaries of member States, its power to legislate is of the character of a "franchise-giving" or "licensing" authority. In respect to navigable waters within the boundaries of member States, its authority to legislate is of the character of a "consenting" authority, although there can be no basic objection to a statutory provision that such "consent" should be given in the form a federal "permit" or "license" issued by a federal "Commission."

The debates in Congress attending the passage of the Water Power Act were of a character calculated to disturb those who were interested in States rights, and the first point of criticism which the States were called upon to make against the provisions of the Act was that it was drawn so as to make no distinction between the exercise of the separate functions of the United States Government, or so as to make no distinction between the different classes of properties over which Congress had jurisdiction of the one character or the other. Thus, the title to the Act is "An Act to create a Federal Power Commission; to provide for the improvement of *navigation*; the *development of water power*, the use of *public lands* in relation thereto, and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes." The question which arose on the doorstep of the consideration of the Act, was whether there is such confusion that the proper administration of the Act would necessarily result in the Federal Power Commission treating properties of the State in navigable streams within the boundaries of member States in the same way as the properties of the United States within the boundaries of member States, or in the District of Columbia or the Territories. Similar instances of statutes of Congress which have confused various functions or powers of the United States and which, for such reason, have been held to be unconstitutional either in whole or in part, will be found in the Trade Mark cases, the Civil Rights cases, and the Employers' Liability cases.

The Water Power Act also contained a number of specific provisions, which, if held by the Federal Commission to apply to navigable streams within the boundaries of member States, would constitute a clear invasion of the constitutional rights of States. Some of these will be taken up at a later point in this report.

III. SUIT IN THE UNITED STATES SUPREME COURT.

The last State administration was called upon to consider this Federal legislation, and to determine what, if anything, should be done to protect the constitutional rights of the State of New York in navigable streams within the boundaries of New York State. Hon. Elon R. Brown, and, upon his death, Charles A. Collin, Esq., were successively retained as special counsel to the Attorney General to protect the rights of the State. Mr. Brown instituted a suit in the United States Supreme Court by the State of New York against the Federal Power Commission and the United States Attorney General, praying an injunction against these officers, restraining them from enforcing the Federal Power Act as against this State. An original bill was filed and was met by a motion to dismiss. Thereupon, an amended bill was filed, which dealt in greater detail with the various water power projects of the State of New York and with what the last State administration conceived might be a threatened invasion thereof by the Federal Power Commission.

IV. THE DEFENDANTS' ANSWER.

On January 1, 1923, your administration came into office, and thereafter the defendants filed their answer to the amended bill. The Attorney General of New York called a conference at Albany between himself, Deputy Attorney General Edward G. Griffin, Mr. Collin, Hon. George E. Van Kennan, Counsel to the State Water Power Commission, and Hon. John Godfrey Saxe, whom the Attorney General had retained as special counsel under this administration.

It appeared that the defendants, by their new answer, instead of threatening

to apply the Federal Power Act in such a manner as to invade the rights of New York, set forth a number of specific allegations or admissions, which indicated that the Federal Power Commission recognized State rights and entertained an intent, in good faith, to work in harmony with the State of New York.

For instance, the defendants, in referring to applications pending before the Federal Commission for licenses and permits in the State of New York, specifically alleged in its answer that the grant of such licenses and permits is in pursuance of the paramount power of the federal government *over navigation*, and is and would be *no interference* with any right of the State, *set up in the amended bill or otherwise*. While they alleged that they would act upon such applications, they also alleged that, by the Act (sec. 9 (b)), an applicant for a license from the Federal Commission must submit to the Commission satisfactory evidence *that the applicant has complied with the requirements of the laws of the State within which the project is to be located*, and that they have *not* issued a license to any applicant in the State of New York who has not complied with the requirements of the laws of New York, and have *not* threatened and *do not intend to issue a license to any applicant who has not so complied with the laws of the State*, that they are not exercising, have not threatened to exercise, and *do not intend to exercise exclusive control over any properties or streams in said State*.

Counsel have painstakingly analyzed the amended bill and the said answer, and the later contains further valuable admissions tending to clarify the situation; but it is unnecessary to weigh down this report with a detailed analysis.

On April 5, 1923, Mr. Saxe, at the request of the Attorney General of New York, rendered an exhaustive confidential opinion in respect to respective rights of the United States and the State over navigable waters, and the availability of the pending suit as a means to obtain a decision in favor of the State in respect to any conflict of jurisdiction between the United States and the State of New York regarding water power development, and he concluded his opinion by advising an early conference between the State Water Power Commission and the Federal Power Commission, looking to cooperation and the acceleration of development of our water power resources. Mr. Collin authorized Mr. Saxe to state that he concurred in the opinion. Thereafter a further conference was had at the Attorney General's office at Albany, and it was decided that before counsel commenced the taking of testimony in the pending suit in the United States Supreme Court, the State Water Power Commission should hold an early conference with the Federal Power Commission.

V. THE CONFERENCE AT WASHINGTON.

This conference was held on May 10, 1923, and we submit herewith, in printed form, the Minutes thereof.

The Federal Power Commission consists of three members, all cabinet officers—the Secretary of War, the Secretary of the Interior and the Secretary of Agriculture. The two Secretaries last named were present in person, and also Hon. O. C. Merrill, the Secretary of the Commission. The Secretary of War and Solicitor General were duly represented. The New York State Commission was represented by the Attorney General and the State Engineer and Surveyor, and by Deputy Attorney General Griffin, Mr. Collin and Mr. Saxe.

Hon. Carl Sherman, Attorney General, who headed the New York delegation, opened the conference by pointing out that it had come about in view of the New York statute which imposes a duty upon the State Commission to cooperate with the Federal Commission with respect to reconciling, if possible, and harmonizing any conflicting claims. "If there is a conflict, we want to known it, and maybe we can harmonize these differences of opinion, or maybe we can get to the point where there is some way of testing any disputed question."

He stated the fundamental propositions, in part, as follows:

"We believe that after the Federal Government has exercised its supervision with respect to navigation, water power, as such, developed on navigable streams, is the property of the State and the State may develop the same

without further federal interference; that if the State then seeks to license it to private enterprises, that the State has such power; that it is the State which may derive a revenue therefrom if any one may derive a revenue from private enterprise for the development of water power; and that if either the Federal Government or the State may eventually recapture the power after granting a private license for a term of years, the State is the one that eventually would take the ownership, under proper legal regulations, of the water power after the term of the license had expired."

1. *Recapture.*

The first point in controversy which was taken up was the provisions of section 14 of the Water Power Act which would indicate that the United States Government might assert the right to recapture, for its own purposes, the power development on navigable streams in New York which constitutionally belong to the State by reason of its proprietary rights. This section, so far as material, reads as follows:

SEC. 14. (Authority of *United States* to take over projects—compensation—condemnation.) That upon not less than two years' notice in writing from the Commission, the *United States* shall have the right upon or after the expiration of any license to *take over* and thereafter to maintain and operate any project or projects as defined in section 3 hereof, and covered in whole or in part by the license; . . . upon the condition that, before taking possession, it shall pay the net investment of the licensee in the project or projects taken . . . plus such reasonable damages, if any, to property of the licensee . . . not taken, as may be caused by the severance therefrom of property taken . . . PROVIDED, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this Act at any time by condemnation proceedings upon payment of just compensation is hereby expressly reserved.

The Federal Commission, at the conference, took a position as to these recapture provisions that virtually removed them from controversy. Mr. Merrill, replying to questions of Attorney General Sherman and speaking for the Federal Commission, said:

"With respect to the question as to the right of the Federal Government to recapture property under license at the end of the license period, it is our opinion that the Act itself does not grant that authority; that the authority must rest, in so far as the Federal Government has it, in its constitutional powers, and its constitutional powers, at the present time, would limit it to the right to take property for *governmental* purposes, and that for such purposes it does not need to have the Federal Water Power Act at all. . . . That provision . . . is not primarily to give the United States ownership, but to enable it to serve as an *agency* for securing for *States and municipalities* this ownership of property at the end of fifty years—that was the primary purpose for which that legislation was enacted by Congress. . . . The provision, then is *primarily for the benefit of the States and municipalities*, if they desire for the next fifty years to go into the business of municipal ownership."

There was also involved in this identical question the incidental question whether the Federal Power Commission would insist upon inserting in such licenses as it hereafter grants in New York a condition permitting recapture by the United States at the end of the license period. The conditions under which all licenses shall be issued are set forth in detail in section 10 of the Act, and do not expressly recite any condition permitting recapture. Section 10, however, provides that licenses may contain:

"(g) Such other conditions not inconsistent with the provisions of this Act as the Commission may require."

The Commission in one permit (not license) which it has granted has inserted a condition for recapture. We, therefore, deemed it important to ascertain the policy of the Commission in this respect; and Mr. Merrill, in reply to a question from Mr. Saxe, said:

"It was expressed in that particular permit—the Niagara permit I think you are talking about—in order to clear up certain aspects of it. We do not generally put it in our licenses."

We thus have a definite understanding between the two Commissions, that the provisions of section 14 were not enacted pursuant to any attempt of the United States Government to recapture our properties licensed by it, and that a recapture condition will not ordinarily be inserted in Federal licenses. New York State, therefore, is in a position, where, if at any time the Federal Power Commission adopts a different policy and attempts to apply the recapture provisions to New York properties, New York can readily raise the question in the pending or future litigation, and establish that the constitutional rights of New York are being invaded by threatened misapplication of these provisions, which the Federal Commission may properly apply to properties of the United States, but cannot apply to properties in streams of a member State.

2. Federal Charges.

The State of New York is also concerned with the provisions of Section 10e, relating to the conditions to be inserted in federal licenses which suggest that the Federal Commission might claim the right to exploit State water power for its own financial benefit.

This subdivision first provides that one of the conditions to be inserted in a license is that the licensee "shall pay to the United States reasonable annual charges for the purpose of reimbursing the United States for the administration of this Act." There is no objection to this provision.

The section then provides that these reasonable annual charges shall also include a charge "for recompensing the United States for the use, occupancy, and enjoyment of *its* land or other property." There is no provision that the United States is to be recompensed for the use, occupancy and enjoyment of *State* "lands or other property." The question thus arose as to what construction the Federal Power Commission places upon this language. Mr. Merrill, speaking for the Commission, unequivocally declared that the Act "was never intended as a revenue-producing measure"; and when Mr. Saxe requested his interpretation of the section in question, he replied:

Mr. Merrill: "I said 'on navigable streams in general.' If the Government has property — *property of the United States*, like that of the new Troy dam, for which license was issued to Henry Ford — there is a charge for that. *If the Government owns the land*, as it does in the West, there is an additional charge for that; *but the general situation on navigable streams is that it merely makes charges for reimbursing the costs of administration.*"

Mr. Saxe: "You have confirmed, in that respect, our view of it."

It thus appears that New York, at this time, has nothing to fear as to the United States insisting on a condition in its licenses for power development in New York streams providing for the exaction of charges for State land or other property.

3. Jurisdiction as to selection of licensees.

One of the most important questions discussed at the conference was whether the Federal Commission might assert any right to grant a license to an applicant who was *not* satisfactory to the State Commission. The Federal Power Act provides, as follows:

"SECTION 9. That each applicant for a license shall submit to the Commission . . . (b) satisfactory evidence that the applicant has complied with the requirements of the law of the State within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purpose of a license under this act."

We directed a number of inquiries to the Commission involving its construction of this section. Mr. Saxe, at one point, asked the Commission what its position would be if the New York Commission should grant one application to "A", and A and a contestant "B" then made application to the Federal Commission, would the latter have jurisdiction to grant a license to B instead of to A? Mr. Merrill answered this question as follows:

Mr. Merrill: "In the first place, it could not be granted to any one who had not complied with the requirements of Section 9b of the Federal Act. Assume that only A had done this. The Commission would, nevertheless, under the Act, have authority to say that it will not issue a license to A because it is not satisfied with A's plan."

Mr. Griffin: "You would not regard it as unreasonable to grant a license to Company B?"

Mr. Merrill: "They must have such authority from the State as is comprehended within section 9 of our Act,—the right to occupy beds and banks and divert the water, and the right to engage in the work of developing power."

Mr. Griffin: "They must have, first, a license from the State Water Power Commission, and second, satisfactory plans?"

Mr. Merrill: "If the license from the State covered those items named in the Act."

Mr. Griffin: "As I take it, the worst situation that could possibly arise is that there would be a deadlock. . . . You would not presume to have authority to settle it for the State over the head of the State of New York, and, on the other hand, the State of New York could not settle the question without the approval of your Commission. That is about the substance of it?"

Mr. Merrill: "Yes. . . . I think it would be advisable for the two agencies to confer before acting. That is what we are working for in each of the States."

4. *Extent of power of Federal Commission to determine "adequacy" of plans.*

Throughout the conference, one subject was repeatedly mentioned, which Mr. Merrill referred to as a "shadow of conflict." This question was whether, if the State Commission should grant a license and the Federal Commission should be satisfied as to the way the water power would be taken from the stream *so far as navigation was concerned*, does the Federal Commission assert the right to go beyond that and look into the "adequacy" of the *power development as a whole*? Thus Mr. Merrill, at one point, said:

Mr. Merrill: "Now of the two plans presented which were of equal merit and one of the applicants had state authority and the other one did not, the only ground upon which the Commission could deny it would be upon the alleged ground that the applicant did not provide for an 'adequate' development."

Mr. Sherman: "Do you speak, then, of the 'adequate' development of *water power*, or do you use the term 'adequate' with respect to adequate protection of *navigation*?"

Mr. Merrill: "No 'adequate' as a whole."

Mr. Saxe: "That is just where the distinction we are contending for comes in."

Mr. Merrill: "That is a point upon which we would not fully agree from a theoretical standpoint; the question is whether we can agree from a practical standpoint."

Later on, the Attorney General brought up this question again, saying:

Mr. Sherman: "There seems to be now one question that might bring about a conflict, and that is your use of the word 'adequacy'. . . . Do you remember whether you used that term as to 'inadequacy' with respect to *navigation*, or 'inadequacy' with respect to *water power*?"

Mr. Merrill: "To the development as a whole."

Mr. Griffin: "The Federal Power Commission claims a right not only to regulate navigation but also to regulate any water power arising incidentally to that navigation, that is your broad claim?"

Mr. Merrill: "I think that is pretty fairly understood. If you will consider that regulation means that it assumes the right to determine whether the structures put into that river make reasonable 'adequate' use of the resources, but when it comes to regulating rates or service in that project or any matters in connection with its operation other than keeping the plan from going to pieces, *it is left entirely to the State*."

Mr. Sherman: "As I say, the State will stand by its position that after recognizing the federal power and authority over navigation with respect to water power, the federal authorities shall not be the judge of the 'adequacy' of a power project as such."

Col. Kelly: "The State has been reserving its rights on that business ever since I have been in the Government service, and yet there has been case after case come along, and when there was a specific case under consideration, there has been no particular difficulty about getting together."

5. *The Barge Canal.*

The conference also considered the application of the Act to New York's principal development—the Barge Canal. The answer filed in the pending suit specifically concedes that the Act "has no application to structures placed in navigable waters prior to the approval of said Act" and that "the defendants have not taken, or threatened any action in regard thereto, and have formed no opinion as to whether any statute of the United States imposed upon them any duty in the premises."

At the conference, Col. Kelly explained the position of the Federal Commission as to the Barge Canal as follows:

"There is a tacit understanding, and has been for a number of years . . . It has been recognized by Congress that since the State undertook this Barge Canal, all the waters pertaining to that Barge Canal were given over to the State to do what it pleased with it, and the Federal Government has not exercised any jurisdiction over it . . . And that is the underlying reason that this Commission has started up on the same principle, that they are not going to exercise any jurisdiction over the Barge Canal functions in so far as it pertains to the waters taken for navigation purposes in that canal."

And again:

"Unless the policy were changed, the United States would not exercise any authority over this water."

6. *State Development of Water Power.*

The Federal Water Power Act expressly recognizes and enforces the policy which your Excellency has so strongly advocated that state water power may be developed by the State itself under its ownership and State control, Section 7 of the Act expressly providing that the Federal Commission, in issuing permits or licenses, shall give preference to applications by States and municipalities. The Federal Commission has also put itself unequivocally on record as willing to enforce this principle. In the amended bill filed by the last State administration the State alleged that the defendants intended and threatened to prevent the State from continuing the construction of certain water power projects and from commencing construction of certain other water power projects. The defendants met this allegation by specifically alleging that Section 7 of the Act imposes upon the Federal Commission the duty to give preference to the plans of any State, and they allege that the plans of New York State have not been submitted to the Federal Commission or to any agency of the United States.

The situation in New York is that today we have no adequate statute authorizing state development and the State of New York cannot take advantage of the Federal Act nor the Commission's willingness to enforce it without an adequate enabling statute. At the conference Mr. Griffin brought up this point and Mr. Merrill declared:

Mr. Merrill: "*It will license them as a matter of course unless they are so plainly inadequate that it would be unjustified.* Of course, it has technically the same right to pass upon the plans of the State as on anybody else."

The foregoing analysis will sufficiently indicate the importance and breadth of the conference; other points were raised and discussed, but they are sufficiently covered in the Minutes. For all practical purposes in the immediate future, the pending suit against the Federal officials has accomplished the objects for which it was brought. The acceptance by the defendants, in their answer, of the leading propositions constituting the basis of the complaint, and the full and frank confirmation thereof at this conference between the representatives of the Federal and State Commissions have apparently settled the principal propositions for which the State of New York has contended, and which the Federal Power Commission had previously seemed unwilling to accept. The disavowal by the Federal Power Commission of any intention to interfere with power developments in connection with the Barge Canal,

and the expression of willingness to cooperate with the State and the International Joint Commission in State development of the power possibilities of the Niagara and St. Lawrence Rivers, without claiming a proprietary right on the part of the Federal Government to share in profits therefrom, has now cleared the way, so far as the Federal Government is concerned, for power developments on those boundary streams by virtue of the concerted action of the State, the Federal Power Commission and the International Joint Commission. We believe that this conference marks a long step forward in co-operation between the Federal and State Governments in the development of New York's water power.

The State of New York has reason to be vigilant as to the future construction and administration of the Federal Act. The debates in Congress, and the broad terms of the Act itself, make it clear that there are those who are unconcerned with the constitutional rights of member States. On the other hand, the Federal Power Commission has apparently done no overt act which violates any State rights, and there is strong basis for confidence in the future arising out of this conference between the two Commissions that the Federal Commission will continue to recognize joint control, and intends no act in derogation of States' rights.

We fully concur in Your Excellency's message to the Legislature, dated March 5, 1923, that New York's water power "must be developed in accordance with the enlightened thought of today, by the State itself, under State ownership and State control, to the end that all of the people may be able to realize the individual benefit which should flow to them from their own resources and their own property." We fully concur with you that the next step to be taken is appropriate State legislation to carry out this policy, which would mean the immediate development by the State of the undeveloped water power available on the Niagara and St. Lawrence. We believe that the absence of such a statute jeopardizes the rights of the State in its relations with the Federal Government.

New York is in a position today to own and control all its water power development upon its inland and border streams. How long she can maintain that position depends wholly upon her own disposition, by appropriate enabling legislation, to make use of them. If the State is not able to obtain from its own legislature a grant of favorable legislation, it makes little difference whether it is the Federal Commission or the State Commission which licenses the State's power to private interests. In either case, the water power of the State will be out of the hands of the people of New York, who really own it. The people, who are deeply interested in the development of New York's water power, have reason to be more apprehensive of opposition within the State to needed legislation authorizing State development of water power, than it has of a possible refusal by the Federal Government to execute a formal consent to the State's plans after such legislation is obtained and the State's plans are from time to time formulated and presented to the Federal Government.

We therefore respectfully recommend:

1. That we do not commence the taking of testimony in the present suit at the present time, but, with the permission of the United States Supreme Court, permit the suit to stand along for the present, unless and until the Federal Power Commission should change its present conciliatory position;
2. That the State of New York, at the earliest possible moment, enact the statute for state development, recommended in your message of March 5, 1923, so that the rights of New York may not be jeopardized and the development of its water power delayed because of the absence of such a statute;
3. That the State Water Power Commission continue in close touch with the Federal Power Commission, and endeavor to harmonize from time to time, any conflicting claims which may arise, to the end that the development of the water power resources of the State may be accelerated;
4. That during the coming session of Congress, Federal bills relating to water power be carefully scrutinized, and that the State be represented

at any and all Committee hearings in respect to any measures which may affect the rights of New York.

Yours respectfully,
(Signed) CARL SHERMAN,
DWIGHT B. LA DU,
EDWARD G. GRIFFIN,
CHARLES A. COLLIN,
JOHN GODFREY SAXE.

The Governor Acts as Auctioneer in the Sale of State Arsenal in the City of New York

By Chapter 471, Laws 1923, a commission consisting of the Governor, the State Comptroller and the Adjutant General was appointed for the purpose of selling the State Arsenal at the northeast corner of 35th Street and 7th Avenue, Borough of Manhattan, City of New York, together with the site thereof and of purchasing a new site and erecting thereon a new arsenal.

The law provided that the sale must be at public auction to the highest bidder after due publication and advertisement.

The Attorney General ruled that under the law a professional auctioneer could not be employed but that a member of the commission must conduct the sale. The commission formally decided that Governor Alfred E. Smith should act as official auctioneer. Accordingly on July 19, 1923, at the Arsenal before a crowd of several hundred prospective bidders the property was sold for the sum of \$1,350,000 by Governor Smith, acting as auctioneer.

This established the highest price ever paid for property in that section of the city. Before the sale it was estimated by experts that perhaps \$1,000,000 might be realized but such estimate was short \$350,000.

In 1920 a private offer was made of \$800,000.00 but declined because it was felt the property would bring far more in a short time—and it did.

With money realized from this sale the State has purchased a site at 63rd and 64th Street, 2nd and 3rd Avenue, Brooklyn, N. Y., 700 by 200 feet upon which will be erected an up to date arsenal costing about \$1,000,000.00.

The original cost of the 35th Street site in 1857 was \$25,900 and of the building about \$100,000.00.

Statement by the Governor in Relation to the Municipal Court of the City of New York

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, August 21, 1923.

Immediately after the last session of the Legislature, I vetoed a bill which added a number of Municipal Court Justices in the City of New York. In the message I said that I was unwilling to give my approval to any bill providing for additional Justices so long as the Municipal Court Code remained unchanged, for the reason that I considered it needed amendment very badly. I suggested that the Bar Association appoint proper committees to confer with the President-Justice of the Municipal Court, looking to a general revision of this Code at the next session of the Legislature. In the memorandum presented to me at that time by the Committee on Courts of Inferior Jurisdiction of the Association of the Bar of New York City, through its Chairman, Mr. Henry Willard Bean, it was said:

"The Municipal Court of the City of New York is, in many ways, the most important court in the city. The amount of litigation which is handled in the course of the year is enormous. * * * Many of the litigants are foreigners

who are ignorant of our institutions. * * * In this court, perhaps more than in any other court, it is essential that the proceedings should be conducted with rapidity, efficiency, decorum and dignity, so that those most entitled to judicial relief shall be fully satisfied of the efficiency and integrity of our courts. Justice is not now so administered. * * *

"The vital defect in the administration of justice in the Municipal Court is that it is not a *Municipal* Court, but is an incomplete and imperfect consolidation of a number of District Courts.

"The city is now divided into 24 districts, with 47 district justices. * * * The territorial limits of the districts have no relation to the flow of litigation or to the convenience of attorneys, litigants or witnesses. So far as the actual administration of justice is concerned, the boundaries of the districts are purely arbitrary.

"The result is just what might be expected. The city is unable to maintain adequate court houses in 24 districts. The physical accommodations are insufficient. In some cases the proceedings are conducted in poorly lighted rooms, full of objectionable odors, where litigants, witnesses and attorneys are pressing against one another and there is an actual physical struggle to reach the bar when the calendar is called.

"The flow of litigation leads to congestion in some districts and idleness in others. Justices and clerks in some districts are overworked, trials are unnecessarily delayed, the whole administration of justice is clogged, while, at the same time, other justices and clerks, pursuant to statutory direction, are either in attendance in districts where there is nothing to do, or are otherwise availing themselves of their enforced idleness."

This is, indeed, a sad commentary upon the administration of justice in so important a community as the City of New York. The so-called "poor man's court," where very largely, as was well said by the Bar Association, the immigrant population receives its first impression of American institutions and where it is essentially important that it shall be thus properly impressed, does not seem to function to its best advantage.

Practically nothing has been done in respect of the organization of this Court since 1907, except that in 1915 the present Municipal Court Code was passed and in spite of the earnest recommendations of the then Commission this Act deals almost exclusively with the matter of Practice and Procedure. In the meantime, conditions have radically changed and obviously the volume of business of the court has substantially increased, more particularly in the recent past as a result of the landlord and tenant legislation due to the housing crisis. This court, therefore, is entitled to legislative assistance to facilitate it in the orderly administration of its added public labors.

As I am satisfied that there is urgent and immediate need for practical reforms, I have concluded to appoint a Commission for the purpose of inquiring into the situation and making its findings and recommendations, in order that I may be enabled suitably and adequately to present to the next Legislature such measures for the relief of the court and its general reorganization as may be found expedient.

Note.—For Members of Commission, see page —.

The Governor Opposes Amendment to Constitution Permitting Use of the Forest Preserve for Private Development

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, September 10, 1923.

Honorable John G. Agar, 31 Nassau Street, New York City:

MY DEAR MR. AGAR.—I am informed that the New York State Association is about to address the voters of the State of New York on the question of the adoption of an amendment to section seven of article seven of the constitution, which will be submitted to the voters at the coming election and has for its purpose a change in that article, which now provides that three per cent. of the

Forest Preserve may be used for the construction and maintenance of reservoirs for three purposes only, viz.: (1) for municipal water supply, (2) for the canals of the State, and (3) for the regulation of the flow of streams; such reservoirs to be constructed, owned and controlled by the State.

The proposed amendment adds a new purpose for which public lands may be flooded, viz.: "the development of water power for the public benefit, and for the construction, maintenance and operation thereon of ponds, structures, conduits and appurtenances necessary."

This new development may be by the State or by a lessee of the State under a lease for a term not exceeding fifty years to be secured pursuant to law "on such terms as will best protect the public interest." Transmission lines may also be constructed, maintained and operated on such lands by the State, or by such lessee of the State, on like terms.

This to my mind involves a very radical departure from our State policy of dealing with our Adirondack Preserve. It enables a lessee to exploit water powers in our great public park and to construct, maintain and operate them for terms of fifty years. No provision is made for compensation to the State. Property acquired by the State at the cost of millions of dollars may, under the provisions of this amendment, be virtually given to a private corporation for half a century. It is left entirely to the discretion of the Legislature, or to officials designated by it, to fix the terms of the lease. The Legislature is to be the sole judge of what will constitute protection of the public interests. Should the Legislature grant such long-term lease, at any terms it may see fit, to a private interest, the people would be powerless to review such determination. The pretense of preserving the public interest is no safeguard against the private exploitation of the Adirondack Preserve. We have protected our Forest Preserve by constitutional safeguards for a great many years, to the great advantage of our people. A departure from this wise policy will, in my opinion, mean the eventual surrender of an important part of the State's domain wrested from destruction only at great cost to the State.

I would deplore the adoption of this amendment to the constitution by the people of the State at this time because I believe that it would be putting public approval upon private exploitation of water powers located on State lands, and this at a time when progressive thought suggests that every possible power development on State lands be developed by the State itself under State ownership and State control for the benefit of all her people.

I am unable to see how the proposed amendment can in any way help the State or her people. On the other hand, I see in it an attempt on the part of the water power interests to absorb for themselves great water powers that belong to the State. Should they succeed in bringing them within their grip, the State would be unable to resume its ownership. We owe it not only to ourselves but to the generations to come that the Adirondack Preserve be kept the property of all the people of this State, and should any part of it be flooded, the flooding should be restricted to the public benefit now set forth in the constitution, and not for exploitation by private interests.

With best wishes for success, I am,

Very truly yours,

(Signed) ALFRED E. SMITH.

Coal Situation—Governor Pinchot Communicates with Governor Smith

COMMONWEALTH OF PENNSYLVANIA — GOVERNOR'S OFFICE

Harrisburg, September 10, 1923.

Hon. Alfred E. Smith, Governor of New York, Albany, N. Y.:

MY DEAR GOVERNOR.—As the executive of a State whose people use anthracite coal, your attention has doubtless been directed, not only to the threatened coal strike and its recent settlement, but also to the question of how the consumer can be protected from undue and unnecessary increase in price.

We were threatened with a coal shortage because of the need of a fairer wage in a peculiarly hazardous industry. By a slight wage increase the production of anthracite is now assured for two years. But we must not stop there. A fair price to consumers is just as essential.

Undoubtedly certain factors in this problem are so entirely local that no action taken outside the State in which they occur can influence them. There are other matters, however, upon which joint action of the Governors of the anthracite-using States would be useful in preventing extortion.

Accordingly, I am writing, first, to say that I am causing a careful investigation to be made in Pennsylvania of the means or methods of any and every kind which could be used to prevent gouging of the consumer; and second, to suggest the possibility of a similar examination in New York, if it has not already been made, with a view to personal conference concerning joint action later on. I venture to make this suggestion because as Governor of the only anthracite producing State a special responsibility rests upon me in this matter.

Since it states certain phases of the case as I see it, I am taking the liberty of enclosing a copy of a letter I sent yesterday to President Coolidge.

With all good wishes,

Sincerely yours,

(Signed) GIFFORD PINCHOT.

Governor Smith Replies

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, September 29, 1923.

Hon. Gifford Pinchot, Executive Department, Harrisburg, Pa.:

DEAR GOVERNOR PINCHOT.—I have given careful consideration to your letter of September the tenth relating to coal conditions in which you express your concern for the protection of the consumer "from undue and unnecessary increase in price."

I think you say very properly that a special responsibility rests upon you in this matter as the Governor of the only State which produces anthracite coal. You are in possession of first hand information with regard to conditions at the mines. I am not. I assume that you know whereof you speak when you mention the need of a fairer wage in a peculiarly hazardous industry. I find no fault with your action in suggesting an increase of wages if in your opinion this was necessary. But I do not believe that any public official should lead the people to believe, or attempt to lead the people to believe, that the price of producing any commodity can be increased, without increasing the cost to the ultimate consumer, unless profiteering can be proven. Have you any evidence of profiteering, so far as your State is concerned?

In your letter to the President, a copy of which you enclose to me, you state that "many operators could absorb the whole of the sixty cents increase and still make abundant profit." As these operators are wholly within the jurisdiction of your State, it would seem to me that in the discharge of the special responsibility which you say rests upon you in the matter, some action should be taken by you and your State to see that the operators do absorb this increase which you say they can absorb and thus do not pass it on to the consuming public of New York and the neighboring anthracite-using States.

From your intimate knowledge of the business and the experience you must have gained in the recent settlement of the coal strike, have you been able to gain any helpful information from the report of the Commission appointed by President Harding to investigate the whole question of production and distribution of coal?

Your suggestion that the public can be protected against payment of this increase, in some way, by the action of the Public Service Commission of this State, entirely loses sight of the fact that no anthracite coal is produced in this State and no shipments of anthracite coal originate in this State. The freight

rates of anthracite coal are all regulated by the Interstate Commerce Commission so far as this State is concerned.

I am, of course, keeping in touch with coal conditions throughout New York State and will be glad to confer with you at any time. Thus far the State of Pennsylvania itself has added to the cost of coal to the consumers by the tax imposed at the mines and the addition of fifty cents a ton, imposed by the State of Pennsylvania, upon production of anthracite coal. Now, the settlement of the coal strike giving a further increase of sixty cents a ton has made you assume the responsibility for these additions for the cost of coal to the consumer.

If you have any specific suggestion that I might submit to the Legislature of the State of New York I shall be glad to hear it, but in the first instance it seems clear to me that the duty and responsibility rests upon you and the State of Pennsylvania.

Sincerely yours,
(Signed) ALFRED E. SMITH.

Statement by the Governor—Fifth Anniversary of the Signing of the Armistice

Though the armistice was signed five years ago to-day, the war in Europe is not over. It is not over because the seeds of war are in the Governments and in the hearts and minds of the people who fought the war. The historic hates and suspicions which led to the greatest man-made carnage in history have not yet been obliterated. As long as we think and feel in terms of war we cannot have peace.

Why have the conferences at Geneva, at Cannes and other places resulted in futile talk? The answer is that as long as people do not think and feel in terms of reconciliation, statesmanship and diplomacy are as insubstantial as air.

Europe of to-day is the victim of the war mind. The hope of civilization is in the birth of a new statesmanship, which recognizes that hate is a barren and destructive emotion and that good will is not a sentimental feeling but a positive constructive force.

The statesmanship which Europe sorely needs must emanate from hearts filled with a desire for unity and reconciliation.

The history of our own country is a shining example of the fruits of such a policy. It took a bloody civil war to maintain the Union. But this precious unity was actually achieved by the spirit of reconciliation so beautifully expressed by Abraham Lincoln: "With malice toward none, with charity for all . . . let us finish the work we are in . . . to bind up the Nation's wounds."

Such a statesmanship could also achieve for Europe a unity, amidst variety, a federation of Europe and not the prostrate body politic it now presents.

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Before New York League of Women Voters, Chancellor's Hall,
Albany, January 16, 1923

GOVERNOR SMITH.—Madam Chairman, members and guests of the League of Women Voters: I have repeatedly said that the State of New York to a certain extent is the victim of its own growth, and I think I can demonstrate to the satisfaction of any person that is willing to be convinced about it, unless for their own peculiar reason they have their mind made up to the contrary, that the State with its ten million people today is trying to lumber along in the best possible fashion she can with a form of government and a structure of government restrained by a constitutional provision that was framed for her when she was a small child.

Now what do we mean by the reorganization of the State government? We mean that the structure of the government itself must be reorganized; that it must be simplified; that it must be brought up to date; that it must be made responsive to up-to-date conditions. Now certainly there can be no mistake about that. Now if anybody subscribes to that theory, let them find fault, if they want to find fault with the manner and method in which we try to do it.

This is not a new theory or a new idea. Long before the ladies voted, they heard of this under what was known as the "short ballot." The short ballot never admitted of any real argument unless somebody can give us a good reason why the people of the State of New York should elect an engineer. Still they go through the solemn process every two years of electing a State Engineer and they pay him about half the salary that is paid to the other engineers that the Governor is obliged to appoint.

Why should the State elect a State Treasurer? He never has a dollar. He goes through the empty formality of writing his name on a check to indicate that the check went through his office; performs minor clerical service for the state, and that is all. Still we solemnly enter the booth every two years and with all the other pressing thoughts of government on our mind, we have to make a selection as to whom ought to perform this clerical service, to be known as our State Treasurer.

The Secretary of State! Why should we elect him? He countersigns papers that come from the Governor's office and he issues certificates of incorporation of companies that desire to incorporate under the laws of the State of New York,—purely clerical position. Still we have been going through the performance here for years

and years of erecting around us every two years this group of elected State officers. And remember when I speak here tonight I speak a little bit in the personal equation. I have no reference to any particular Secretary or any particular Treasurer, or any particular Comptroller; I am talking about the history of the State back over a period of twenty years. There never was one of them who came to Albany that didn't think he ought to be the Governor. It was just an accident that in the convention he was named a little bit later than the Governor.

Plus the requirement by the Constitution that all these men be elected by the people, the Constitution contains provisions for certain boards, certain commissions, and makes constitutionally certain public offices. Why should there be anything in the Constitution about the Superintendent of Public Works? There is nothing in the Constitution about the Superintendent of Highways. Why should there be anything in the Constitution about the Superintendent of Prisons? There is nothing in the Constitution about the Superintendent of Purchase. Why should the State Commission of Prisons happen to be a constitutional body, and every other Commission created from time to time statutory?

Go down to the corner of State and Pearl streets tomorrow morning at ten o'clock and stop the first one hundred people you meet and ask them who the State Engineer is. (Laughter.) Ask them what was the name of his predecessor, if they happen to know him. Ask them what does he do. What function does he perform for this State. I will venture the suggestion that there is not one person in five hundred thousand in this State that knows what the Land Board is, and who makes up the Land Board. And what does the Governor have to say about it, although everybody looks to him.

I sat over in my office here a couple of years ago in the capitol, and the eyes of the State of New York are on the Governor; he is the man that everybody thinks has got the last say on everything, and I picked up an Albany paper and found out that the Land Board met that morning and bought \$460,000 worth of land in the Adirondack Preserve, and that is the first time I heard of it. (Laughter.)

How many people know what the Canal Board is, and what does the Canal Board do? Still these are all constitutional; constitutional bodies, but are operating in this patchwork, crazy quilt form of government that we are struggling along with, or trying to struggle with. Nothing illustrates it better than the chart prepared by the New York State Association. There it is. There is the government of this State; 189 independent boards, offices, and commissions, all trying to operate in all parts of the State.

Now has anybody got any idea in their mind of what it means to be a Governor, to have to deal with these 189 boards? Still, on the other hand, how can the Governor refuse to see them? A great many of them are on a salary, and they are really doing the best they can. They are putting forth the best effort within them to help the

State and when they come to see the Governor there isn't anything for him to do but to talk with them. When the boards of trustees of Sullivan's monument in Elmira come down here and want the automobile road leading to the monument widened by five feet, who is there for them to talk with about it? Anybody else? Certainly nobody that the Governor can talk to.

I thought I knew all about it after twelve long years, but I was only in the Governor's office a year and the assistant secretary came in to me one day and said, "there is a vacancy on the Board of Geographic Names." (Laughter.) "Well," I said, "that is a new one. I never heard of it before." (Laughter.) But it exists.

The chairman of the Senate Finance Committee, speaking before the Merchants Association at a dinner in New York a short time ago said that he was on the Senate Finance Committee for a great many years and he annually consented to the appropriation for the maintenance of Spial and never found where it really was.

Now let me just put a serious note in it for a minute. I can make a good deal of ridicule in this thing, but let me say this seriously to you. There is no question that I can think of today that is nearly as important to the people of this State than a proper reorganization and reconstruction of the government because every abuse that you can find in it lies behind its present loose and disjointed organization. (Applause.)

Now there is no use of trying to operate without the machinery. There is no use of finding fault with the way this thing or that thing is going on unless you can first find out that there is opportunity for you to do it better.

We had something interesting happen here in 1915. The incoming Governor had a very good idea for the consolidation of the taxing departments. It was a constructive suggestion. It was intended to take these different taxing agencies out of State offices spread out all over the State and put them into one commission. He had behind him a substantial majority of his own party in both houses. Could he do it? He could not. Because the Comptroller didn't feel like letting him do it, and the Comptroller had more patronage to give out than he did, and the Comptroller openly boasted right here in the city of Albany that the Governor couldn't put that across because he wouldn't let him do it and it didn't pass.

Why should there be four different agencies of the government dealing with the subject of prisoners and prisons? Now we can talk economy and efficiency in the government until Christmas, but if you are going to maintain the government in its present structure you cannot expect anything of lasting economy; you cannot expect anything of efficiency; you can not even expect on the part of the ordinary individual in the State any understanding of the government itself.

I have repeatedly said in different cities of the State, speaking about this reorganization, that the different overlapping functions of

these various departments with their agents and secretaries and field people constantly traveling from one end of the State to the other makes the State of New York the greatest single customer that the New York Central Railroad has. Four different agencies taking care of prisoners. You have got a Superintendent of Prisons fixed in the Constitution. You have to have it, and there he is and it don't make any difference what he does nobody can remove him but the Senate. Now then you have the Commission of Prisons. The Constitution says you have to have that too. Now you have a Board of Parole, and you have a Commission on Probation, all dealing with the subject of prisoners. The Commission of Prisons visits Sing Sing to see that it is there, and find out if the prisoners are as comfortable as it is possible to make them under all the circumstances, and after they have had dinner with the warden on their way out they meet the Board of Parole coming in. The Board of Parole waits for supper. And the next day the superintendent visits the prison. As far as I am able to understand the Board of Parole works six days a month. They go to the prison and take the prison record handed to them by the warden. The prison record indicates the expiration of the minimum sentence of the different prisoners. If there is a red mark after him, he hasn't been good and he don't go out. If he is alright there is a blue mark after him and he goes out, and the Board of Parole looks the list over and says, "Well, let the ones out with the blue marks and keep the others in," and then they go to the next prison and there is nothing else for them to do.

Why should the State maintain about four or five engineering departments? You have them in the Highway Department, in the State Engineer's office, you have them in the Department of Public Works and you have them in the Public Service Commission. Blue-prints, drawing paper and drawing instruments, special rooms with the light right from the midday sun so that the draftsmen can see it. Spread out all over the whole capitol. The residents of Albany require very little information on the subject of the growth of these departments because it is only a matter of time when anybody can live near the capitol. They will have every available piece of property there is for an office for a new commission.

Nineteen different agencies of the State deal with the State's dependents. Nineteen of them! Nobody knows anything about what is going on. It isn't humanly possible for anybody to get any great understanding of it, and don't let anybody tell you that they have it. If anybody could possibly have, I probably would. I don't know all about it. I have no way of finding it out.

Now aside from any other consideration lets look at this from the standpoint of business; just good business; efficient business. What business corporation in this country could exist very long if it ran its affairs the way the State does? Not one. And the only reason why the State lasts is that in the last analysis it just has the

power to put its hand right into your pocket for the cost of it and you have no recourse except to pay.

Don't let anybody talk to you about decreasing budgets. There is no such thing as that. Every now and then in the heat of the gubernatorial campaign there will be made some promises of what we are able to do in the interests of economy. Don't be fooled by that. We had that three months ago. We had a surfeit of it and what did I find when I came in? I found when I entered the Executive Chamber deficiencies in the cost of running the government for last year of six and one-half million dollars. Now before we do anything, I must pay that. Before appropriation is made for my own salary, I have got to meet six and one-half million that should have been paid last year.

Now I made my mind up that it doesn't make a bit of difference to me personally what happens, I will never color any of these financial statements. I won't do it. I don't care where the budget goes to. The only way to make the people of this State understand what is going on in their government (applause), is to tell them the real truth of what it costs, and if you can put down over your name every dollar of it and what it was spent for it is a great deal better than to be holding it back and promising something that you know in the last analysis is never going to come.

When I came up here in 1919 I found the State had developed a new custom or a new habit, authorize a million dollars for something and then appropriate about a dollar and a quarter of it and leave it for the next year to pick up the rest. Right here in the city of Albany I found the Greenbush bridge and I found the Congress street bridge from Watervliet to Troy, both of them were the property of the State of New York, but they were not paid for,—a million and a half dollars.

During the last session of the Legislature not a dollar of money was appropriated to pay the owners of tubercular cattle that were slaughtered through the State,—\$1,600,000 and interest at six per cent. Now there is no economy in that and there is no management of the government. It is not business. It costs money to run this government. It is going to cost a little more every year and there is no escape from it until you reorganize it, until you get it down so it can be handled by somebody, so that some one man can be looked upon as being responsible for it and can do something with it. (Applause.)

In the last campaign we talked about deficiencies from my last year. Who created them? Who created them? Why this elaborate list of State officers I am talking to you about. They didn't feel any responsibility while I was down in the Governor's office. The bigger the appropriations while I was there, the better for them. So they just sent it along; give them everything; pass it all up to them.

Now let us see if this is anything new that we are talking about on reorganization of the government. Over in that chamber of the Assembly in 1915 this whole scheme was laid out before the people

of this State by a Republican constitutional convention. The only time during the whole convention that Senator Root came down from the presiding officer's chair and made a personal appeal from the floor, which was his right to do as a member of the body, to the members of that convention was for the passage of this reorganization of the government. And the men that have opposed it have frequently said that it was once submitted to the people and defeated, and they stopped at that, but they failed to say that with it was submitted about fourteen things that no living person could stand for. (Applause.)

Now that is the God's truth about it and I am telling it to you right in Albany and the men that submitted it felt that they had made a mistake afterwards. What argument was made against it in 1920, when it was brought to me from a nonpartisan source, when the Reconstruction Commission, made up of leading Democrats and leading Republicans from all over the State that gave of their time and their energy to the work of the government during the war? What real argument was ever made against it? None. The Legislature started out in opposition to it and finally passed it because they had no argument against it standing by itself. So that it went through the Legislature in 1920 and with its own weight and all the strength and power behind it it passed the Senate in 1921 and was defeated in the Assembly and the Governor himself took the full responsibility for it, and in taking that responsibility what did he say? He said, "You don't need any constitutional amendments. I will do it by statute." What is the result? When I arrived on Capitol Hill the first of January there was one more department than there was when I left, in spite of the fact that three or four of them abolished themselves automatically, like the Excise Commission, the department for the soldiers bonus that was declared unconstitutional and several others.

That brings us to 1923. The amendments are again introduced in both houses and let me venture the prediction that there will be no public argument against them. If they are defeated they will be defeated in caucus, and you know what that means, and you know the bills that went down to defeat in caucus before that this League was interested in; and you know the man that says to the caucus that the principles of the Republican party are against the welfare of the women and children is not telling the truth. That isn't Republican policy. That is expediency. That is politics, not policy.

Well what do we propose to do about it? We propose to take these 18 different spending agencies, and boards and commissions and reduce them down to 18 departments of the government; put them into the Constitution and then say to the Legislature,—“that is all you can have.” “And when you find it is desirable to embark into a new State enterprise, you put it into these 18 departments.” And you can take it from me that I sat down for hours and hours and I thought and thought of everything that would happen in this

State or everything that might ever happen, even to the possibility of the regulation of aviation, and you can put it into 18 departments. (Applause.)

Let me illustrate that a little bit for you and I don't think I could illustrate it in any better way than to refer to the recent commissions that were appointed and as to whether there was any reason for them. Assume for the sake of argument tonight that the policy of the State is sound when it makes up its mind to censor moving pictures. I don't agree with it, but assume that it is right. Must you have a commission to do that? Suppose you were running a business. Where would you put the censorship of moving pictures if you didn't put it into the Educational Department? Doesn't it look sensible that that is where it belongs? If there aren't enough brains connected with this building here, to be able to tell whether there is depicted on the screen anything that breaks down the moral fibre of the youth of the land, why we might as well turn the building into a garage.

There was a Commission created to distribute the soldiers' bonus, assuming that the Court of Appeals hadn't found it was contrary to the fundamental law of the State. Why, there are two people in the State of New York that ought to do that,—one the Adjutant-General, and the other is the Comptroller. One man has the money and the other has the record of service abroad. But that don't do. You have to have a commission to do it.

Read the Civil Service Law and find that provision that automatically by law exempts secretaries to boards and commissions and you will find some reason for the creation of a great many of the commissions. The men that are creating them have the secretary in their mind ahead of time. And if it is a paid commission, they get the names of the commissioners ahead of time. So the temptation to constantly create new agencies of the government.

One of the very salutary features of the reorganization plan is that restriction upon the Legislature against the creation of new commissions, and is that anything new? Why, forty years ago we began to restrict the Legislature. When did the people put the restriction on? When the Legislature abused the power. There was a time you could have your name changed by an act of the Legislature. You cannot do that any more. It got to be a nuisance. There was a time when the Legislature could give a company the right to lay railroad tracks down inside of an incorporated city. You cannot do it any more. It got to be a scandal.

Read the section of the Constitution that deals with the powers and duties of the Legislature some night for yourselves and find out all the things the people themselves have told the Legislature it cannot do. And they can make it complete by telling them for all time to come, "You cannot create any more of these commissions. Keep the government within the departments that are created."

Now that brings us along to the next phase of the question. That is another amendment to the Constitution about the term of the Governor. That was defeated in 1920, but nobody ever gave any argu-

ment against it, and I have tried in every way I could to get somebody to give me an argument why a Governor ought to be elected for two years. Obviously from the cold standpoint of good practical business, it is really a joke. What man that never served in the Legislature can understand this thing in two years? And bear in mind he hasn't two years to find it out, because in a year and six months he is running again. And bear further in mind for the first three months he is up here, he is shaking hands and explaining why he cannot take care of a certain fellow. Now the people don't want to put too much on a strictly business basis. I think they want to look at the Governor once in a while, and I would regard it as a sorry time in the history of our State if the bride and groom enroute to Niagara Falls stopped off at Albany and he was unable to show his influence in the State by presenting her to the Governor. That time must never come. I know how I would feel about it myself, because that is the particular time in a man's life when he is trying to impress on some certain individual that he cuts some real ice in this State.

Let me go to the next one. But before I do let me say this. The Legislature itself in 1904 declared that a two-year term for the mayor of New York was too short; that no man could come into the mayoralty of the city of New York and give any account of himself in two years. That is a matter of public record right across in that building and the charter of Greater New York was amended in 1904 to provide a four-year term for the mayor upon the theory that he couldn't do anything in two years. The same men that made that amendment to give what they believed was the necessary relief to the proper administration of one city of the State, held back the amendment to elect the Governor for four years.

Now related to the reorganization scheme and fitting hand and glove with the four-year term is another very important business proposal for the taxpayer, and that is the budget. Now remember I talk this entirely impersonal. I have no reference to party or no reference to individual. All that you have heard about Governor's budgets and boards of estimate and control just discount it because it is worthless. It doesn't mean anything. While the Constitution says that the Legislature shall appropriate and the Governor cannot reduce an item in the budget, he must either take it all or nothing, you will never have any scientific budget scheme in this State and I defy anybody either in or out of Albany to successfully dispute that statement. If he wants to do it, I will give him the facts.

We had a dinner of the newspaper reporters one night at the Ten Eyck and while it is a satire it so clearly depicts what really happens that it is probably the chief event of great interest to everybody once a year here in Albany. I never miss them. I came up from New York even to see myself painted on the screen driving a team of horses with a silk hat, after I went down to New York to go into the trucking business. A few years ago there was a bill passed creating the Governor's budget and while the diners were all seated around the table down at the Ten Eyck it was immediately

following a disclosure in the public press of some chef in a Chicago hotel that had poisoned the soup, so a man came running in quick just as the soup was served and said, "One minute; one minute; one minute; don't touch that soup; wait a minute." So everybody sat back to find out what was the matter. Then a policeman came in and marched around and asked what was the matter and he brought the chef out all dressed up with a chef's hat and white coat on and charged him with putting something in the soup and they asked the chef what it was and the chef told them that the chairman of the Senate Finance Committee requested him to put the Governor's budget in the soup. Now that is what happens to it.

And you can create all the agencies by statutory law that you like. You can fill this building and the capitol with them. There is nothing that they can do. The appropriation bill is made up by the Legislature according to the Constitution. The chairman of the Finance Committee of the Senate told the Merchants' Association at a dinner in the Hotel Astor in 1920, in my presence that there wasn't ten men in the whole Legislature that knew what was in the appropriation bill. Now that is not my statement. That is his, and he lives in Albany and can deny it if he likes. But he made it and I haven't the slightest doubt that he is right.

We had an interesting experience here quite a few years ago and I think it is worth while telling it to you. The Legislature made a certain appropriation to investigate something the Governor didn't think ought to be investigated so he cut it out of the appropriation bill and says, "we have saved that much." In about four weeks after that it was called to his attention that this committee was out west investigating this particular thing, and he sent for the Comptroller and he said, "Who is paying their expenses, themselves?" The Comptroller said, "No, the State is paying their expenses." "Why," he says, "I cut it out of the appropriation bill." The Comptroller says, "You only cut it out once. It was in there twice."

Consider, just for the moment from the standpoint of good business what it means to put the restriction on the Governor that he must take the whole item or nothing. Why, you better take the power away from him entirely. You look to him. You assume he is the power. He is not the power. The Governor is confronted with the proposition of either accepting what the Legislature says or crippling the State entirely so far as that activity is concerned. How can you have any business that way?

During my last year in Albany I vetoed a bill for a bridge in a certain county in the central part of this State, and I wrote a veto that no man could dispute unless he was willing to say the State ought to build that bridge anyway because those were very nice people in this particular section of the State. There is no justification for it. I was traveling through the State this year and it was called to my attention that the bridge was being built. I said, "Not by the State." "I watched the appropriations. It is not being built by the State. They must be building it by the county." The law requires the

county to build it. This man said, "No, the State is building it." So I called a man up here in Albany and I said, "Get all of the appropriation bills and go home to the house tonight and don't go to bed tonight until you find that item," and the next morning he called me up and said, "I found it." The bridge was being built out of the fund for the maintenance and repair of highways.

One of the arguments made against the executive budget I like to meet all the time because I anticipate it, is that it detracts from the power of the Legislature. That is not so. I would be the last man in this State to stand on any platform and advocate that the direct representatives of the people of this State be stripped of any of their power. I wouldn't do it. I don't want to take away from them a single bit of their power or of their dignity. But I want to regulate this so that when they want to do something everybody will know that they are doing it. And when they are not in accord with this plan, it is because they are unwilling to let it be known.

Now what does the executive budget provide? Link the three proposals up together. You have reduced your government down to 18 different departments. That means that the Governor has 18 men or women, whatever they may be, to deal with. They are the heads of his departments. He looks to them. The Governor sits down with them and they prepare a budget and that budget is supposed to contain or will contain the absolute necessary overhead expenses of running the government, put under the head of necessities, just exactly the way a man and wife will sit down around the kitchen table and say, "so much we must have for rent; so much for gas, so much the butcher has got to get; so much the baker has got to get, and after we have got that all figured out, we will talk about the desirable things that we would like to do around the house." See the point? Now after this bill is prepared by the 18 department heads, all of whose terms will be coterminous with that of the Governor so he won't find himself surrounded by people that either know nothing or don't want to know it, that bill goes into the Legislature. The Legislature can reduce any item in it they like, subject to the veto of the Governor. That is the provision for the support of government. After that is passed, and this is the argument that nobody can answer, after that is passed, the Legislature can do anything it likes in the way of appropriating. It can commit the State to any God's quantity of money and expenditures if it is able to tell where you are going to get the money. That is the important principle of it. When they appropriate, let them say, "And here is where it comes from." The man that takes the other side of the argument has got to answer the important question of why the Legislature should raise anybody's salary over the head of the department. Does that make for efficiency in government? Does that make for discipline in government? Why, the senator's friend don't have to talk to the department head; he is only the boss. The senator is the salary raiser. Can you have any degree of efficiency under a system of that kind? Children in school can readily understand

that that shouldn't be so. If any senator or any assemblyman believes that the stenographer to the Commissioner of Education isn't getting salary enough, introduce a bill to raise it, but don't raise it in a 700 page bill nobody ever sees. There is no argument against that that I am able to understand or able to see.

Now take the argument,— foolish and senseless, never sustained,— that this whole programme makes the Governor an autocrat. Does it make an autocrat of any other official in this country that has the right to make all of his own appointments? There is absolutely nothing to that. The Legislature remains the law-making body and they can do everything by law that the Constitution says they cannot do. The great power still remains with them. If the people are in accord with them, they can reduce the Governor's salary and the only thing he can do is to vote against it on election day. Nothing is further from the truth. Nothing is as absurd, and nothing is as far-fetched and senseless an argument against this as making the Governor an autocrat. I don't know, if you get right down to it, but what a fairminded reasonable autocrat wouldn't be a little better than a nonentity, or a man that is charged with grave responsibility and to whom everybody looks and who finds himself unable to move around. Some of them think they did it around election time. They will tell you what they did, but it never happened.

What is the objection to the whole thing? It don't seem that any student of government could object very much. It don't seem that anybody who desires to see the cost of government at least kept down, if not reduced,—we won't promise too much; let's be on the line of safety; let's say the cost of government at least kept down, can object to it. And what is the objection? What is the one and only one objection? The one thing that is interfering with the government of the State and of the Nation is politics. Now politics has its place. I am not a preacher; I am a politician. But there is a place for everything and everything ought to be kept in its place, and when politics interferes with the orderly management and the economical and efficient management of the government it is out of place. Politics is discussion. Politics is argument. I can argue with you as to how we ought to make our nominations, whether we ought to make them by convention, or whether we ought to make them directly. That is politics. I can argue with you as to whether we ought to have 150 State committeemen or 300 State committeemen. That is politics. I can argue with you as to whether the boards of elections ought to be bi-partisan, whether there ought to be two or four commissioners. That is politics. Some other questions are on the border line of politics. They represent different views and different beliefs held by parties. They are half way politics. Whether we ought to exact from our school teachers an oath of allegiance and loyalty to our country is a form of politics as between a liberal and a reactionary group. But when it comes down to the management of the government, the control of the government over the appropriation bills and over the departmental heads, that is busi-

ness, and that is only confounded and weakened when politics gets too far into it, and that is the trouble with it today.

I can pick out for you some of the most important agencies of this government and if you ask me what is the matter with them, I will answer "politics." Why, the important Workmen's Compensation Commission carrying out the Workmen's Compensation Act for which this State receives so much credit not only in this part of the country but through the United States, fell the victim of politics before it was a year old in this State. There isn't any question about that.

What is the matter with the Labor Department? The Labor Department for the last twelve years has been the victim of party politics. Every man that arrives on capitol hill that has the power behind him to do it rubs the whole department all out and starts it all over again. No doubt about that.

What has held back the development of water power? Politics. What is the water power statute since 1908? Go into the State library while you are here and see what has happened to the Conservation Act and to the old board of water control beginning in the days of Governor Hughes and ending up last year. That is what it is.

Now in the management of the State's affairs when it comes to those fiscal questions, when it comes to the large departments, when it comes to this cumbersome, broken-down, patchwork government that we have here, you will never get it on a business plane until you are able to take out of it every vestige of politics that is holding the State back. That can only be done by educating the people themselves, because the great rank and file are interested after all only in the efficient, the economic and a proper understanding of their government. For that reason I urge upon the Association or League of Women Voters here that they through their organization as they have it spread out throughout the State, carry the message to the people that the full intention and full purpose of these three amendments is to give to the State an economical, an understandable, efficient, intelligent and businesslike administration of its affairs.

At Luncheon of Board of Trade and Transportation, New York City, February 3, 1923

Mr. Chairman and Members of the Board of Trade and Transportation: We are living in the greatest age of material progress that the world has ever known; and the mysteries of the radio, still only partially developed, give to us an opportunity to present our side of any question to an audience larger than it would be possible to gather in any place in the world.

I have said all along that New York City, as a City, is at a certain disadvantage in the solution of her problems because of her own size.

She is in a sense a victim of her own great growth. The small municipalities of the State, the villages, and the smaller cities have their problems solved infinitely faster because, in the first place, there is a better general understanding of them; and, of course, in the second place, they are not as enormous.

Pressing the people of this city for solution at the present time is the problem of increased transit facilities and the betterment of the existing facilities. The history of it briefly is this: The first subway was constructed on Manhattan Island by a special commission created by the Legislature, the names of the Commissioners being carried in the act itself. The reason given at the time for the creation of such a Commission and its creation in such manner was that there was a doubt—to say the least, a doubt—about the ultimate success of an undertaking of this kind, and no existing governmental agency in all probability would be able to cope with it.

In 1907 the Public Service Commission Act was enacted and two Public Service Commissions were created. Prior to that time, regulation of public utilities rested almost entirely with the Legislature, except that we had in this State what was known as a Railroad Commission. They traveled about the State, observed conditions on the great trunk lines and had only the power of recommendation. They would recommend to the Legislature every year the enactment of various statutes that, so far as they applied to trunk line systems, were general in their character and in their scope.

In 1906 an investigation was made as to the cost of manufacturing and distributing gas in the City of New York. A legislative committee brought back a report to the Legislature that gas could be manufactured and distributed on Manhattan Island for eighty cents per thousand feet, and fixed a price in Brooklyn and in the outlying boroughs, and at the same time created a permanent agency known as the Gas Commission to continue from time to time just the kind of study that was made by the legislative committee, to the end that the State may always be in possession of information to guide it with regard to the cost, operation and maintenance and what should be a fair and reasonable price to the consumer. The Legislature took a strange attitude on that suggestion. It defeated the eighty cent gas bill, but it created the Commission, and when Governor Hughes arrived in Albany on the first of January, he came there with a clear cut and well defined plan of lifting all that class of legislation out of the Legislature for all time to come and committing it to a permanent commission, that would not only make the studies and the investigations but also have power to make rates.

In the preparation of that legislation there arose a very ticklish question, and that was what to do with New York City's Rapid Transit Commission. There was a very strong opinion in Albany that the duty and the power of constructing subways should be turned over to the City. There was not any doubt about that. The Governor himself was doubtful as to the advisability of continuing that function in the State. The bill creating the Public Service Commission was sent to Mayor McClellan. Why? As a matter of

precaution. Mayor McClellan vetoed it and it went back to Albany and was passed over his veto.

The feeling was so strong that transit construction was a city function that the men behind the bill did not take a chance of passing it without first submitting it to the Mayor for fear that there might be a successful attack made upon its constitutionality. What really happened was this. Our old friend Politics put his finger in the pie and our upstate legislators sat back in their chairs and said that they did not feel inclined to give the power to the city administration to construct subways while that administration was apparently under the control of Tammany Hall. Well, if you are going to proceed on that theory we are never going to get any place.

In my message I recommended that the construction of subways be entirely and absolutely a city function. Nobody has ever been able to explain to me upon what theory it should be a State function. The city builds all other great public works, bridges, public buildings, and in fact we have a striking example in the Ashokan Dam. In that instance the Legislature not only permitted the city to build its own system of water works but permitted it to go outside of its own boundaries and condemn property in other counties for its water works. That went along quietly, smoothly. The Ashokan Dam was built and I think I am entirely within the truth when I say that it is one of the foremost pieces of engineering work in this country today, not excluding even the Panama Canal.

There is a very good business reason why the city should have the power to construct its own subways without interference from the State and it is this. At the present time you have a division of responsibility. Every business man knows that that is bad and does not get you any place. You have, further, two major powers provided by constitutional law resting in the City and which cannot be removed without amendment to the Constitution. You have minor power resting in the State body known as the Transit Commission. Now, good business sense suggests that they be put together so that somebody can be held responsible, so that there will be somebody whose sole job it is to do something to enlarge the transit system of the City. To take the power away from the City and lodge it entirely in the State would take three years and I am doubtful if you could do it at that. I do not think you could repeal a section of the Constitution that prevents the State either through the Legislature or through any body of its creation from laying down railroad tracks in the City. That provision was put into the Constitution to safeguard the interests of municipalities throughout the State from legislative interference, with what the people themselves believed to be the power and the property of a municipality. If that be true what is the next thing to do?

The next thing to do it to take the minor power away from the State and put it over where the major power is so that the people in this City will be able to know who to look to if they do not get subways.

The question of public utility regulation has always been one of great difficulty anyway. It touches so much the family and it has such a personal, such an intimate relation to the individual. When a man kicks on an electric light bill he can only register that kick about once a month when he gets the bill. If he wants to kick on the gas bill he could probably only kick on that once a month unless he has a slot machine. But on transit the man has his daily kick. The minute he leaves the house in the morning he is reminded of it. And then after a long hard day at business before he gets home he is again reminded and it must of necessity create a sore spot. We might talk about this indefinitely and talk of the principles involved in it but you cannot get away from the fact that the divided responsibility as it now stands makes the people look to the State when the State has only the minor power.

For a quarter of a century at least there has been a feeling in this City against rule from Albany and it is not entirely without justification. We have a charter in this City that is really a charter of restriction and by inference and court decision there has grown up a situation whereby you can do nothing here unless there is affirmative command in the charter that you be permitted to do it. How is it that you never read about any amendments to the charter of the City of Yonkers? You never hear of an amendment to the charter of the City of Syracuse, or of Utica, or of Binghamton.

I remember a short time ago they were thinking of dividing the Cities Committee in the Assembly into two committees and make one the committee of Greater New York and the other the Committee on Cities. Everybody said there will be nothing for the Committee on Cities to do. There wouldn't be any occasion for them to meet. The legislation in Albany is directed to conditions in this City and this is the reason for it. Second-class cities of the State operate under what is known as the Uniform Second-Class Cities Charter and it is a charter of liberty. They have it within their power to do all the things that they want to do in these cities. Rarely ever are they affected by legislation unless perchance it be an amendment to the General Cities Law applicable to all cities.

When the City of New York adopts a policy of giving to municipalities the power to change their method of voting from the lead pencil and paper to an automatic machine they tell every other city in the State that it may do it, but they tell New York City that it must do it.

I remember an old time provision that was in the dock department section—our friend the Dock Commissioner, I think, remembers it,—which said that if the engineers of the Dock Department certify that the damage to a dock cost more than one thousand dollars to repair, the Dock Commissioner must let it by contract and he cannot do it himself. He may have plenty of men, and any quantity of material, but if it costs one thousand dollars a contractor must do it and the City cannot do it.

I cite these two instances to indicate to you that there is reason for the ever-growing feeling down here that Albany pays too much

attention to the detail business of the City of New York. Take your apportionment. What do we mean down here under the present apportionment? The larger we get the smaller our representation is. Just twenty years ago this fall, 1903, I first ran, right in this neighborhood where we are sitting now—this was the border line of the district, Park Row District—for the Assembly. At that time there were thirty-one assemblymen elected on Manhattan Island and the various apportionments that have taken place in that twenty years have reduced Manhattan Island's representation to twenty-two.

We have an Assembly that is Republican by the Constitution. You cannot get away from it. Last fall furnishes quite an example. I would not think anything of the election four years ago but last fall the Governor was elected by three hundred and eighty thousand and the rest of the Democratic State ticket by over two hundred and fifty thousand, the Senate is Democratic, but the Assembly—it can't be done.

The population of this Assembly District is 96,000 people. You have 96,000 people living down here in the cradle of Greater New York, the birthplace of it, right along the waterfront, 96,000 of them, and they have one Assemblyman. But if perchance you happen to reside in Putnam county you have one Assemblyman for 12,000. There are some twenty counties in this State with less than 50,000 population but they all have an Assemblyman. For half the number, as in St. Lawrence county, on the Canadian border, with one hundred thousand people, they have two Assemblymen and the First Assembly District with 96,000 people has one.

When that question was brought up in the Constitutional Convention there was a lively and interesting debate, and a great many scholarly lawyers and students of constitutional law attempted to justify it on the theory that the county was the unit. They were unable to get away with it in argument. Of course, they had the votes,—that's very good; but they didn't have the arguments. And finally one prominent upstate delegate stood up in his place and told the truth. And it ended the debate. All the convention wanted was to have the truth told, because everybody knew what was going to happen on the roll call, and he said: "You can talk about New York as much as you like, it is one corner of this State, and it doesn't make any difference how many people get into it, it will never get control."

Of course there is no answer to that. Now, that situation, not something that happened in the last year, or the last two years, but something that has been growing up for a quarter of a century,—that situation puts a certain amount of distrust in the minds of the rank and file of the people about any supervision attempted to be exercised from Albany over the purely local affairs of the City of New York. And transit certainly falls into that class.

Prior to 1907 there really was no regulation of public utilities. The State undertook to establish a policy of regulation by commission. These commissions ever since that time have been legislated in, and legislated out; removed on charges, new men put in. So that I think in all, since 1907, if I can remember the figures of my message which were exact and taken from the official records of the Executive Chamber in Albany, I think we have had about fifty-four commissioners. The theory, the underlying theory of regulation by commission was that there would be a continuity of thought and a constant study from a trained group. That purpose or that intent has been entirely defeated; because I feel again that our old friend Politics has been mustered into that. The theory upon which the State attempts to regulate public utilities is the exercise of what we call the police power. The State doesn't exercise it itself. It confers the power to do it upon a commission. The theory behind that is that these utilities use the public highways, and in the last analysis the title to the public highway rests with the State.

I haven't any quarrel with that doctrine as a doctrine. My quarrel with it is that it has not been successful largely because of the agency. Now, what harm can come by transferring that power to the elected representatives of a municipality, thus making it the agency and let the question of proper regulation become an issue. Let us have a chance to vote for men that are going to exercise that power. Certainly, there can't be any harm in that. If there are any ills that democracy is suffering from today, they can only be cured by more democracy. The more you pull away instead of going in, the worse it is going to get. We have a constant and unnecessary change of State policies with regard to these things. The Chairman read an extract from some paper or magazine about the handling of public utilities in the past two years. Nothing in the whole past administration incensed the people of this State so much as to have the State nullify contracts between public service corporations and the cities themselves, and giving that power over to the State.

It is all right to argue some constitutional principle and talk about some divine right or constitutional right. But you have to reckon in this city with six million people. You can't let a half dozen men make the determination as to how their affairs are going to be run. You can't get away with it. They won't stand for it. So that you might as well face the situation just as it is.

Who knows any of the Public Service Commissioners? What do we mean about this talk of taking the government too far away from the people? That is exactly what we mean by it. Nobody knows them. Nobody has any chance to know what their ideas are. They come suddenly into office overnight, and they have the fixing of great policies that have to do with the comfort and convenience of millions of people. I am unable to understand upon what theory any man can say from a public platform that

the elected representatives of the people in a municipality should not be selected as the State's agent for anything the State wants to do.

In the first place, aside from this exercise of police power, the contracts with public utilities corporations are made with the cities, and should be. And who is in a better position to regulate them than the same body that has the power to contract with them? In the part of my message where I dealt with city control, I had in mind that here and there throughout the State there may not be a desire on the part of the people of the city to take over this control. There may be reasons, in some of the smaller cities upstate after they reach the limit of their taxing power under the Constitution why they should not create a bureau to do this regulating. Well, that would be a good Home Rule democratic objection if it came from a city. So, in order to meet that, we have put a little more democracy into the thing, and we suggested in the message that the bill be so drawn as to permit any city by a majority vote of its common council, or the governing body, under whatever name it may be known, to pass resolutions if it so desired requesting the State to keep that control. And the State will do it, because we must bear in mind that the State must have a Public Service Commission anyway for the regulation of utilities that are not entirely within the limits of an incorporated city; and for such regulation as the State now can exercise over the trunk lines—which is practically nothing.

The law of this State fixes two cents a mile, I think it is, on the New York Central. But you can't buy a ticket for that. The State of New York by law fixed the price of gas on Manhattan Island at eighty cents. But you can't buy it for that.

Now, we come to the next point: Municipal ownership. Every argument, every single argument made against Municipal ownership today was made with a great deal of effect when the City determined to supply its inhabitants with fresh water. There isn't any question about that. Municipal ownership argument was made in 1904 and 1905 when the City took over the Staten Island Ferry. We have municipal ownership in New York at the present time. We are running ferry boats, we own the bridges. And up to the time of Mayor Gaynor we actually collected tolls from people that went across the bridges.

Why shouldn't the City have the power to do anything that the City itself believes to be in the interest of the health and welfare of the people of the City? I have never heard any real argument against it which amounts to anything. You could make it against anything at all that the city does, with just as much force. As a matter of fact the Croton water bonds, every one of them, were met by the City out of the rents collected for water, even under the old basis before the metering system, when the tenement house paid a dollar a front running foot per year for all the water that they could use. Municipal ownership on parts of the subway under the contract,—

that can come. Now, remember I admit freely that there is room for a great deal of argument about these things.

I don't know whether they are good or bad. I don't think anybody does; but my point is that whether good or bad they should be debated across the street at the City Hall and not in Albany.

The City should be given the power, and let the City determine for itself, either by popular referendum or in convention system or by any poll that they would want to take. But you will never quiet the very apparent and very justified dissatisfaction throughout the city while you take an attitude that Albany is going to keep its hand on the throttle, telling you that you can't do this, or you can't do that, because somebody in Albany says so.

The same thing applies to busses. When I was a boy, the Union Ferry Company was one of the richest corporations around New York. Its stock was at a very high figure. Where is the Union Ferry Company today? The onward march of progress,— would anybody seriously contend that the City should not have put up these bridges while its investment was in ferry boats? How far would anybody get with that argument? What became of the old hack driver that used to be up at Madison Square, and Union Square, and Chatham Square? Did anybody worry about his old horse and wagon when the automobile came along, and the onward march of progress pushed him out of the way?

I signed a bill in 1919 to bridge over the creek at Kingston. And there was a man running a ferry there, and he didn't want the bridge built. He wanted everybody to use his ferry.

We went down there and built the bridge, and to my great surprise, in the thirty-day period, in 1920, I ran across a bill that the Legislature actually passed, not with any hope of course that it would ever become a law, but to give me something to do. I ran across a bill that permitted this man to go into the Court of Claims and get a reward or a verdict against the State for the loss of his ferry.

The point I want to make is this, the City ought to be in a position to be able to cope with any situation that requires progress, and not to have to fight its way along inch by inch and meeting this resistance that it always meets from the upper sections of the State. How many New York men in 20 years have had the final say in the Legislature on any of these problems? I guess I was the last one in 1913 when I was Speaker of the Assembly. Usually the men that decide these problems come from villages of a thousand inhabitants. Let us not lull ourselves into the belief that we are finished with that kind of a situation. We are not and we have not any reason, when you get right down to brass tacks, to deny this City and her people the right to do any of these things, that the City itself believes to be in the City's best interests.

Let us debate it down here. Let us have it for an issue. We haven't any real municipal issues these days. Everybody talks economy. There isn't any great big question that the people pass on

down here because the final settlements of the big questions do not rest with the City. They become State issues, a place where they have no business to be.

Now, that briefly constitutes the rapid transit and the public utility sections of my message. Incidentally they are taken bodily from the platform of the Democratic Party upon which I made my campaign. It does not compel New York to do anything, but it does confer upon New York a very broad and a very liberal grant of power. Outside of the transit construction feature of it, it gives the same grant of power to other municipalities throughout the State, and they find themselves in the same position that we are under existing conditions because of the recent public service legislation.

Nothing made the people of Syracuse so bitter as to think that they were unable to compel a railroad to carry out its bargain solemnly entered into, an agreement in writing, and before the expiration of the time the State comes along and lifts the power entirely out of the city and takes it to the State and then stops right there. There comes a time and a period, and it will constantly be recurring when we have again and again to reassert our belief in the fundamental principles of the rule of the majority and democratic representative government. That is necessary.

No better example of it exists than just what I am talking about today. If the City of New York cannot be trusted with this power we ought to find it out as early as possible, because then there is something fundamentally weak in the structure of our government if we have continually to go to Albany and pour into the frosty upstate air the ills that beset the commonwealth of New York—the metropolis of New York, only to come back and wait another year for it. It won't be very long before we have a great deal of discontent and discouragement with which we may not be so well able to cope.

If I warm up any on this subject or appear to be excited about it, you can readily find the reason for it, and that is my intense devotion to the best interests of this City.

Not more than five blocks from here I was born. Six blocks from here my mother was born and nine blocks from here my father was born—right in this neighborhood. I remember Park Row when French's Hotel stood where the World Building is. I had a newspaper stand out on Park Row in 1887. I watched the City grow. I represented this section of it for 12 years. I was Sheriff of this county, President of the Board of Aldermen, delegate from the lower end of the city here to the Constitutional Convention, and when I started I knew as little about it as any living man could know, just as little. And it is the appreciation of the opportunity given to me by the people of the lower end of this City that keeps foremost in my mind at all times the preservation and the care of its best interests.

For two years I put a great deal of hard labor on the Port Authority. I went around the City, went to Jersey down as far as Bayonne and Jersey City proper, Hoboken, spoke to Chambers of Commerce throughout our own State, went to Albany on it, battled for it because I believed that it is right. I believed that it is destined

to help this City, that it is destined to maintain the commercial supremacy of New York on the Atlantic coast.

I believe in this. I am satisfied that it is right. I am satisfied that you cannot get relief until you fix this responsibility. We can go along two more, three more or four more years the way we are going. Unless we mend the structure at its base and get rid of the thing which is out of gear, we are not going to get anywhere and that is my notion about it; and it is my devotion to the City and a real desire to see it keep pace with its growth, a real desire to promote to the very last possible degree the welfare and the comfort of the six million people who make it and make it the greatest City not only in this country but in the known world.

Before The National School of Democracy, Town Hall, New York City, February 3, 1923

Madam Chairman and Delegates to the National School for Democracy:

I understand it to be my duty tonight to speak on behalf of the State as to the essential difference between the thoughts, the ideas, the ambitions, and particularly the performance, of the two great parties. Obviously, because of the drain upon my time, I could give none of it to the preparation of any long, studied effort to show the difference in fancy language. But I can show, without preparation, as far as the actual performance is concerned, the true facts — and after all, that is what we are concerned with.

The democratic platform and the republican platform and all the other platforms read very well. They are put out at a time when the party is looking for votes, and they are made as attractive as possible. They are in the nature of an advertising card — to attract the eye, to grasp the public attention. But the performance in the last analysis is what counts.

The essential difference in this State between the two parties, as I have viewed it in my active political career which dates back over twenty years — because in 1903 I was first elected to the State Assembly from the lower end of Manhattan Island, and in the twenty years that has passed my name has only been off the ballot in this County I think about three or four times, in fact, three times. Once while I was Sheriff in the second year of my term and once while I was Governor in the second year of my term, and the first year after I left Albany. So that I have been able to study the history pretty well.

Let us take up one at a time the great subjects of public interest, and let us compare the attitude of the parties; and when I speak of this I speak according to the record, and nobody can dispute it. I am influential in the Town Hall because I helped to start it, and if there is anything I say from this platform tonight that anybody desires to dispute, let them come up on this platform at any time they choose. I will be here.

No. 1. *The Income Tax*.—What is the record of the two parties? The income tax amendment to the Federal Constitution was submitted to the Legislature of 1910, then under the complete control of the Republican Party. And what did they do with it? They rejected it. They were unwilling to say that great wealth ought to bear its share of the burden of government. They were unwilling to subscribe to the indisputable principle that he who benefits the most should pay accordingly.

Governor Hughes was then in office as Governor, United States Senator Wadsworth was the Speaker of the Assembly, and the proposal to ratify the Federal Income Tax was defeated in the Assembly, under Federal direction and under republican organization command in 1910.

Now, that is a matter of history. You see how easy it is for me to issue the challenge, because I just quote the history. It cannot be disputed. In the fall of 1910 a democratic governor was elected and a democratic legislature was elected, and in the spring of 1911 the amendment to the Constitution providing for the income tax was adopted by the State. Now, there cannot be any dispute about that. Nobody will deny it—it is history.

What position would the country have been in in her hour of trial, in her hour of tribulation during the war, if she was denied by the provisions of her own Constitution the power to levy an income tax against the people who could best afford to sustain the country? And so far as the record of that particular subject is concerned in this State, it is a distinctly democratic achievement, as against a reactionary performance on the part of the republican party.

No. 2. *Direct Election of United State Senators*.—That amendment came to this State for ratification in 1911 and was bitterly opposed on the floor of both Houses of the Legislature at Albany by the then republican minority. It was adopted, and the State of New York was put squarely on record for that progressive measure by the votes of the democrats in the Senate and Assembly, against the forceful and vigorous opposition of the republicans. About that there can be no question.

After some great constructive reform is achieved there are always a great number of people looking for the credit. In view of the history, how can anybody deny to the democratic party in this State the credit for putting the State of New York in line for enfranchisement of women? You know, there is a funny little history goes with it that I think I ought to tell you. I ought to go back a little bit; we are going back further than the twenty years I spoke about.

Prior to 1894 there was nothing in our Constitution in this State prohibiting women from voting. It was in the election law, the statute law of the State. The Constitution was silent on the subject, but the statute law, known as the election law, contained certain qualifications for voters, and among the qualifications was that a voter must be a male. Roswell P. Flower was Governor, and there was a bill passed in both Houses of the Legislature striking the word "male" out of the law. It came down to Governor Flower and lay

on his desk for quite a little while. Wonderful pressure and wonderful influence was brought to bear on him, and he did not sign it, and it was lost in what is known as the omnibus veto among thirty-day bills.

The following year the Republicans, in full and absolute control of the Constitutional Convention, took from that a warning, and it was they who wrote into the Constitution of this State the word "male." It was the republican party that by constitutional law for twenty years prohibited women from voting in this State. They were in power from 1894 right through to 1911, and during all of that period a proposal to amend the Constitution could never even be reported from the committee for discussion. When it was reported it was pursuant to a democratic platform plank which promised the people of this State that they would submit the question, and I was the Speaker of the Assembly who handed down that report of the Committee on Judiciary, offering to the people of this State the opportunity to pass upon this question.

Look at the return of the election of 1917, and study out the political situation in the light of neighborhoods. It is a matter of fact, it is a matter of history, that cannot be disputed, that the votes to carry the amendment enfranchising the women came from the sections of the State that for half a century have been known to be strongly democratic.

I said in the course of political debate time and again, that every big constructive reform in the government of this State was put through under democratic auspices. Let us prove it by dates and facts and by figures. Taking them, not necessarily in the order of their importance, let us study the history of the Workmen's Compensation Act. That policy of the State took us away from a worn-out condition and put New York State in the very forefront of all the states in the Union which had a constructive, intelligent and progressive Workmen's Compensation Act. Who passed it? A democratic senate and democratic assembly, and it was signed by a democratic Governor. Our republican friends went through the motions of investigating it—a popular republican pastime.

Investigate things but don't do anything about them. Sometimes the report of the committee satisfies the clamor and the appetite of the people, for a little while, but meanwhile we get another year over us and as long as nothing happens everybody is happy. That is the characteristic standpat policy of the republican party in this State. The Legislature convenes on the first Wednesday in January, and the republicans are exceedingly happy if they can wind it up as soon as possible, so that nothing happens.

There is quite a story goes with the Workmen's Compensation Act, and I think nothing that I could tell you here tonight more clearly marks the line—illustrates more clearly—the line of demarcation between the republican and the democratic party on the treatment of this great question, than a story about the Workmen's Compensation Act.

Among the different conflicting elements in the preparation of the original bill was the desire on the part of the insurance companies to be permitted to settle directly with the injured workman or with the widow of the man who was killed. That was a practice that grew up under the old system, before we had workmen's compensation laws, which was particularly advantageous to the insurance companies. Immediate settlement, and nobody had expected for a moment that the insurance companies, with their trained men and with the ability that they are able to bring to their command, got the worst of the settlement. No, you could not tell that to anybody. The injured man or the injured woman, or the widow, in the hour of sorrow and of distress, invariably was the one who got the worst of it. That contention was strong enough to hold up the passage of any Workmen's Compensation Act. But when the democratic party wrote it on the statute books it put it there right. In 1913 that Act contained the provision that there could be no settlement that did not have the sanction of the State through its Commission.

Well, what happened? In the fall of 1914, the State elected a republican Governor, and an overwhelming republican majority in the Senate and Assembly. I came down from the rostrum where I presided and accepted the humiliation of party defeat, took my place in the center aisle as the leader of the minority. That session of the Legislature was not one month old when a cold-blooded and deliberate attempt was made to restore the direct settlement provision. There was a young man named John Leo Sullivan from Chautauqua county, a republican, who opposed it in the Assembly, and he stood up in the middle aisle of that body and told a story, and the story was this — that during the summer a representative of a big insurance company was on his vacation in his section of the State, and they were talking about the Workmen's Compensation Act, and this man told Sullivan that if the republicans win "we will restore the direct settlement."

What happened? A storm broke out over the Legislature, adverse opinion and adverse criticism from every part of the State was directed at it with great fierceness. But they did it. They did it by applying the party whip, and I personally felt sorry for some of the young republican assemblymen who were afraid of their political futures if they turned their backs against their party organ. They were brought into a room in the capitol and herded together like so many cattle and sent out to vote for the insurance companies against the injured man. That is history. That is history. They cannot deny it. I give you facts and I mention names, and I tell you just where I got it from — because I was there.

What happened further? During the term of my predecessor, Governor Whitman, the insurance companies had full sway. When I went to Albany as Governor, I said, "This is my day." I was defeated on the floor of the Assembly in 1915, although I was right — so I had my day, and I appointed a Commissioner under the provision of the Executive Law and I sent him into the Workmen's

Compensation Commission to investigate it. And what was the result? I laid before the Senate and Assembly at Albany the names and addresses of men and women throughout this State who were defrauded by the direct settlement. And under the pressure of public opinion and under the stress of facts that they were unable to dispute, we wiped out of the law the provision for direct settlement. And then what happened? When my successor came in, by the processes of reorganization and changing around, and without mentioning it in the law, but fixing it so it could be done anyway, we are back to it again. So that I have the job to do all over again.

That brings us down to date. And I think that that very clearly establishes the difference between the two parties in this State, so far as the great interests are concerned, as against the rank and file of the people. There can be no doubt about that. I have spoken all over the State. I talked about it until I was blue in the face—because I knew I was right.

Now, direct primaries. It is a matter of history and of common knowledge that during the administration of Governor Hughes in this State the republican party was torn from stem to stern in a bitter fight over whether the people would make the nominations or the bosses would make them—and the bosses won. Governor Hughes left Albany on the first of September to take his place on the Supreme Court bench at Washington, and when he left the capitol he said, "Thanks be to Almighty God."

He was not running away from democrats. As a matter of fact, there were not enough of them up there to hurt him. But he was running away from a mess within his own party. They investigated direct primaries and they talked about them. They fixed the appropriation bill so that the investigating committee would have the expense of their trip to the western states paid by the State, whether the Governor liked it or not. This brought about an interesting episode in the State's history. The Governor struck out the appropriation for the traveling expenses of a committee that was going to investigate whether or not the enrolled voters ought to make their own nominations. He struck it out of the appropriation bill, and then he heard that the committee were on their way and had actually proceeded. He sent for the Deputy Comptroller and he said, "Are these men paying their own expenses?" "I don't think so," was the reply. "Well," he said, "That's funny, because I took that item out of the appropriation bill." And the Deputy Comptroller said, "Well, you only took it out once, and it was in twice." They were bound to investigate it, and of course the theory of investigating it was to be sure to bring back a report that it was not any good.

Which party gave to the people of the State a thorough-going direct primary bill—a primary bill that opened up the door of party to the enrolled voters and turned its machinery completely over to them? The democratic party in 1913. It rested on the statute books until 1919. The first assault upon it was made while I was Governor, and one day there came down to me an amendment to the election law providing for the restoration of the convention system for the nomi-

nation of Supreme Court judges. So I sent for one of the republican leaders, and I said, "What does this mean?" "Well," he said, "You know it's all right, Al, on these strictly political nominations, but when it comes to selecting judges of the Supreme Court," he said, "you know a few people can always do that better than the mob." I said, "is that so?" "Well," I said, "That is just exactly in direct opposition to my notions about it; because if there is one official that the people themselves ought to nominate as well as elect, it is a judge." I said, "If you brought that down to me and stated that with reference to an Alderman, or an Assemblyman, there would be a chance for you, but the very reason you have given is the reason why I won't sign that bill."

Well, what happened? Flushed with the great victory of 1920, carried away by that million one hundred thousand, intoxicated with the notion and the thought that they had broken into the solid South, feeling that the trend of thought and public opinion was going to be their way for another generation to come, they went up to Albany and they emasculated the direct primary bill and they gave us back the convention system, not only for judges of the Supreme Court, but for all the officials running statewide, and it enabled the Governor to take control of the convention and declare whom he would permit to run and whom he would not.

That is the history of direct primaries. In my first annual message to the Legislature I recommended restoration. I will follow up that recommendation, and without malice and without feeling, I will make it clear, just as clear as it can be made by a man who can only use homely language, who is responsible if it is beaten.

Reform of the ballot, why, the republicans put out tons of literature on it. Some of their leading members waxed eloquent on the question of ballot reform in this State, but did they ever do anything about it? Nothing. You did not have any more chance of reporting from the Judiciary Committee any amendment to the election law reforming the ballot, than you would have of carting the Capitol away with you.

When it was reformed, when the direct primary was adopted giving freedom to every citizen to choose as between the different candidates and use his judgment, who did it? A democratic Senate and a democratic Assembly and the democratic Governor, in 1913.

Aside from the Workmen's Compensation Act, the things that I have been talking about are probably political. I want to go on to a subject that has taken a great deal of my time and a great deal of my attention, and a subject into which I put every bit of force and vigor that I could bring to my command—and that is the humanitarian laws that are comprehended within Child Welfare and Labor Laws.

Prior to 1911 we had in this State a Commissioner of Labor. He had a little office in the roof of the Capitol, where the shingles came down this way (illustrating). He had a wonderful volume of statute law, but nobody to enforce it.

One of the direct consequences of that situation was the Triangle Shirtwaist Fire, that startled the whole State, and gave rise to the creation of a State Factory Investigating Commission, of which I had the honor and the pleasure to be the Vice-Chairman. At eleven o'clock in the morning, in a modern fireproof building, twenty-three young girls lost their lives in fifteen minutes. A careless match or cigarette, thrown among some flimsy dress goods used for waists, set the whole floor afire. On the floor immediately below and immediately above there was absolute safety. In fact, the people on the floor below did not know there was a fire in the building. All they had to do was to walk out and go to the next floor, and let that floor burn out. After the material was burned, nothing else in the place could burn, because it was fireproof. But the door was locked, and they could not get out. The owners of the factory were indicted; there was the great, big outcry that usually comes after a great calamity or great catastrophe. But nothing happened. And that gave rise to the suggestion, how much of inspection takes place on the part of the State as a cure for evils of that nature? The reason given for the locking of the door was the theft of some goods a week or two before that—\$2.50 a day for a watchman to stand at that door would have saved the lives of twenty-three or twenty-four girls.

Well, the investigation started and it developed, according to sworn testimony that has never been and never can be disputed, that as far as the State's inspection service was concerned, it was a farce; the inspector came around once a year, and the man who owned a factory knew just about when to expect him. And while he sat in the office smoking a cigar with the superintendent, everything was put in readiness.

According to sworn testimony when he arrived a day ahead of time in a factory in the central part of the State, they took the children who were working in that factory, under legal age, put them in an elevator and ran it between the floors, letting the elevator stand there until the inspector left.

There was a condition in the canneries of this State that was a disgrace to American civilization. Little children were brought at sunrise to work in the canneries, and when the agents and the attorneys of the canneries came down before the Legislature to explain it, why, you would think from the way they told that these little children were brought out on an excursion party, that it was an outing into the country, that they were sitting there getting God's beautiful sunshine.

What were the real facts? The real facts were that one woman, hired by the Factory Investigating Commission, went up there and secured employment in the place. She watched it for two solid weeks, and she saw the children being slapped in the face when they had fallen asleep from exhaustion there in the middle of the day. That was the condition. From that investigation there grew a volume of regulatory law making the Factory Code of the State of New

York the most enlightened in all this country. It came from democrats, the work was done by the democrats; the bills were passed by democrats, and let me say further to you, that it has been necessary for democrats to protect them ever since, even up to this very day.

What were they? The fifty-four-hour bill for women engaged in industry. The republican clamor against it was, "Industry will leave the State, it will go over into Connecticut and it will go over into Massachusetts, or it will go into Canada." They were unduly solicitous about manufacturers. We passed the fifty-four-hour bill. None of them left this State.

Another one was the bill that abolished night work for women. That statute was declared unconstitutional in this State in 1904 by the Court of Appeals, upon the theory that it interfered with a women's liberty to contract. In other words, she can do anything she likes in the way of contracting to work. Why, nobody ever thought that that section of our Constitution—it is taken from the Federal Constitution—that liberty ever was intended to mean the liberty of contract, when that contract was against the public health or the public welfare. That kind of liberty meant the liberty of the person or the individual, as long as he lived within the law, to move around and go wherever he liked and do what he pleased—if he violated no statute. The same law, limiting the hours of labor, the identical one, was sustained in 1914, ten years after, by the very same Court. In the opinion the Chief Justice took occasion to mention that the Court sustained its constitutionality because a report from a Commission of the Legislature laid before that body indisputable evidence that working in the night time was injurious to the health of women, and the health of women was the greatest asset that the State could have.

The prohibition of women working in foundries, the one-day-of-rest-in-seven Act, every one of these bills and every one of these laws was written on the statute books of this State by a democratic Legislature and signed by a democratic Governor. Did they remain there peacefully? No. It has taken real democratic effort and real democratic fighting in all the period since 1913 up to today to keep them there. The one-day-of-rest-in-seven has been compromised with so much that there is very little of it left. An attempt was made even in 1920, to weaken the night-work law for women. And I remember it distinctly. A man from an interior part of the State, a part that is made up entirely of foreign communities, with practically no factories in it, introduced the bill. Some of the newspaper men came down to speak to me about it, and I said, "Well, it is impossible for me to imagine what he can possibly have in his mind. He forgets entirely that I am the father of this particular act, and that I put it on the statute books, so far as the lower house in Albany is concerned; and if he has an ounce of brains he ought to know that I would let this Capitol crumble around me before I would compromise with this principle even in the slightest degree."

Child Welfare.—I appointed a commission in 1913 that studied first, and afterwards proposed, the Child Welfare Act. We took a progressive step that has been followed by other States in the Union. We took the unfortunate child which had been the beneficiary of charity through institutional training and we provided a system whereby that child remained home with its own mother and she instead of the institution became the agency of the State to protect it. Did that beneficent measure have republican support or republican sympathy? No, the republican leader of the Assembly in arguing against it reached over the aisle to me and said, "What about the grass widows, and what about the children of the drunkard?" That was his conception of it. That was the republican idea of it, and that it was paternalistic. If it is to be done at all, they said, it must be done as a matter of charity — not as a matter of State duty, which was the democratic idea and the democratic policy.

Now we pass to another class — Conservation of our Resources. The Democratic Party in 1911 enunciated the only intelligent program we have ever had in this State for the proper conservation of natural resources and the development of water power. Every State in the Union has been blessed in some particular way by Divine Providence with some great resource. New York is not behind the van. We have in this State the greatest possibilities for power development of almost any part of the United States. The Canandaigua river, the Genesee, the St. Lawrence, the Niagara, Niagara Falls itself, the upper Hudson, and the surplus waters of the Canal make a potential water power development in this State able to take the place of nearly half the coal that is being dragged here from Pennsylvania. The republican record on that is a long black one. It is a tainted one; stained on its every page with the growing evidence of favoritism to private individuals and to private corporations.

In 1905 the United States Government was obliged to reach its hand into this State to preserve the scenic beauty of Niagara Falls because republican legislatures one after the other gave away the water on the Niagara river above the Falls, for nothing. Why, they even fooled a brilliant man like Governor Hughes. In 1907 they laid before him a bill to incorporate the Long Sault Development Company. It contained a provision for some miserly return of a few dollars to the State for half a million horse-power, and they incorporated a giant corporation with a hundred million dollars of capital. But they did not get away with it. In 1913 a democratic Legislature and a democratic Governor repealed the charter of the Long Sault Corporation and drove them into the Court of Claims for any redress; and the Court of Claims said they were entitled to \$75,000 for surveys they had made.

In 1914, after several years of study, a democratic conservation commission brought forth a comprehensive plan for water-power development. It passed the democratic Senate and it went to death in the republican Assembly, and to be sure that it died it was referred to three or four committees, so that if it got away from one

it would not get away from the other. In 1915, when the republicans again were safely entrenched in power, what did they do with the democratic conservation law? They tied it up in a knot by providing that no plan for water-power development could be effective unless it had the approval of the Attorney-General and the State Engineer. The Attorney-General is the State's lawyer. There might be some reason for tacking the engineer on, but nobody ever gave any reason for putting in the Attorney-General, unless it was to be sure that nothing would happen. So we went along quietly until 1919, and nothing did happen.

In 1919, when I arrived in Albany, I had a definite plan for water-power development. On a fixed democratic principle that admits of no argument — development by the State, under State ownership and under State control, so that the rank and file of the people can get the benefit of their own resources. What happened, though? It passed the Senate — the republican Senate. The force of public opinion was strong enough behind it to drive it through a republican Senate, but when it got over to the Assembly the leader of that body called the young men together and appealed to them in the name of the Republican Party to defeat it, and they did.

We come to another change in the government, and then what happens? A Water-Power Commission is created, and for their own achievement they are able to point to the fact that they gave a temporary license to a private corporation to divert the water from the St. Lawrence river. I have recommended and propose to put before the Legislature at Albany a fixed and definite democratic water-power policy that will give to the people of this State the benefit and the sole benefit that grows from this property that belongs to them.

Somebody may raise the question that democrats only thought of these things, that they did not think of business. That is not true. The present banking code was enacted by the democratic Legislature of 1913. That has been time and time again referred to as the most progressive act of its kind probably in this country. But nothing tells the story nearly as well as the Constitutional Convention. That was the market place, that was the mecca, that was the picnic ground of the special interests throughout the State. Oh, they held high carnival there. The county fair was not a circumstance compared to that so far as the amusement of the special groups were concerned, and they sent out from that republican Constitutional Convention a body of organic law that the people of this State rejected by exactly half a million votes.

The real leader of the republican party in this State at that time, and still very influential, was the chairman of the Committee on Powers and Duties of the Legislature, and he had an unique proposal, thoroughly reactionary. It was the greatest expression of barbarism that the country ever was to hear. He wanted to tie the hands of the Legislature and tell them no privilege could be granted to an individual not granted alike to all residents of the

State. Nobody seemed to understand what it was. But it developed in argument that it was intended to prevent for all time the enactment of such bills as Workmens Compensation and Child Welfare.

There is not any doubt about that. The man I speak about is William Barnes. He was the republican leader of this State for twenty years. That is what he wanted to do. He wanted to make sure that you could not get anything. Of course, it was too raw, it was too raw even for the members of his own party, and a sufficient number of them joined with the democrats in defeating it; but that is what he had in his mind and that is his notion of government, and he can't get away from it. And it was along these lines that the Republican Party was conducted in this State all during his leadership, because on the floor of the Assembly the night of the debate on Child Welfare, the very things that he said in the Constitutional Convention about paternalism were said by the republican leader who was an Assemblyman from his own county. So that his influence and his notions permeated the whole atmosphere of republican control in this State for a generation.

That is a little of the history of the past; let us move on to a little of the present. I never heard a man in this State make any reasonable or decent argument against the creation of wage boards to fix a minimum wage for women and children. Never heard of it. How is it you cannot get it? That was among a group of bills for which appeal was made to the Legislature in 1919 and 1920 — that it be defeated in the interest of the republican party. That is pending in Albany. Keep your eye on it. Watch it sailing through a democratic Senate. Just watch it go through there with colors flying, and watch what happens to it when it reaches the republican Assembly. An eight-hour day for women and children in industry; is there any reasonable argument that can be made against that? Organized labor is able to enforce it by the power of organization. But these republicans seem to be unable to understand that women seldom organize in industry because they do not go into it as a life-work, and the only way they can get the benefit of the eight-hour day is to have the force and the power of the State put behind the movement and written into the statute laws. It will go in there just as sure as we are in the town hall — nothing can stop it. It is just republican obstinacy to anything that means progress. It is just republican subservience to big interests.

And, by the way, big interests are foolish about it. I was talking to a man in Albany who went away for a trip to the South. He employs 250 women in a woolen mill in Rensselaer, and he stopped in to see me before he went. He said, "Governor, you stick to this eight-hour law, don't let these factory fellows tell you that it hurts them." He said, "I have it in my factory and it isn't the law." He said, "I have it there because I want comfort and peace of mind. I have it there because I want to take this present trip feeling that I am leaving behind me people who are earning for me in all the comfort and satisfaction that I can give them." That is the broad

liberal spirit, as against the narrow view that never sees around the corner.

Something was said early in the night about the Lusk bills. Why, the Lusk bills were nothing more nor less than a foolish, senseless obedience to what some men thought organized wealth wanted. That is all they were. Why, they spent \$120,000 investigating criminal anarchy. Fear! They saw red all around the place—everything was red. And as a result of it all, what was suggested? It was suggested that the Appellate Division in the Third Department be permitted to strike a party off the ballot if the judges did not think the party platform was all right. Can you think of that, in an American democracy, in a place that declared for freedom of speech and of thought? Here were five men going to sit down and say that a group of American citizens did not promulgate a theory in keeping with their ideas and therefore you could not vote for their candidates, and therefore they ceased to be a party. The only excuse in the world that could be offered for it was that we were just coming out of a great war and everybody was so distracted by the aftermath of the war that they were paying no attention to the busy little bodies who thought they were helping great wealth when as a matter of fact they were hurting it.

The other proposal was a proposal to test the loyalty of school teachers, and that statute is on the books today. One of the Senators talking about it the other day deliberately misled the whole Senate as to the purpose and the working out of the Act. He said, "The Governor takes an oath of office, why should not a school teacher take an oath of office. An Assemblyman takes an oath of office why should not a school teacher take an oath of office?" The man who said that did not know what he was talking about. This is not a question of taking an oath to stand by the constitution. We are all ready to do that at any time. The Lusk Loyalty Law provides that the principal of a school certify to the Department of Education whether or not in his opinion a certain teacher is loyal. That is different. Democratic government giving the power to anybody to pass upon the loyalty of another citizen! Why, if I was a school teacher and any principal in this State questioned my loyalty to this country, he would not go to school himself for a long while.

I am going to anticipate from the audience a very natural question—this question should, I presume, particularly come from our visiting delegates of other States. The question is this: If everything that you say is true, how do you account for republican success in a State like this? That is a natural question. I will answer it for you. The answer is this: The republicans have a world of money, no end of it, and they can draw it from all the four quarters of the State by a single motion. And they know how to use it. They maintain in Albany a Press Bureau, and that press bureau circulates, broadcasts throughout the State, into all the newspapers, even to the very point of supplying the paper with the set-up type, ready to print.

We know the power of propaganda. Democrats know how it was used in 1919 in this country. I heard Dr. Wise from the platform

of the Wieting theatre in Syracuse make the statement that the very day that Woodrow Wilson put his foot on French soil there was a newspaper of the republican National Committee which started to discredit its own President at a great crisis in the country's history. There is no doubt about that, and what was published in papers in this country was suppressed in France. France had a greater regard and a greater respect for the leading representative of the greatest country in the world than the country itself had.

How were the newspapers dragged into this. You might ask me the question, is it the small town newspaper that depends in some way upon the republican power for its success? Not at all. It reaches into them all — reaches into them all. We have a powerful newspaper in this city called *The Tribune*, founded years ago by the beloved and venerable Horace Greeley; but in the very editorial column of *The Tribune* this week there is political propaganda put out that is entirely false and contains not a single word of truth. Somebody invented a little story — Governor Smith has 3,000 jobs to give out, and all the democrats were upset over getting the 3,000 jobs. The removal of an incompetent commissioner was to provide patronage to the faithful. Terrible situation — spread it out. Not only do they prepare the news articles, but they prepare the editorials, and the papers publish them.

Now, I want to say this: I have as strong a belief in the freedom and the liberty of the press as any man in this country. I want every newspaper in the State of New York to come into my office and look it over. And I not only invite, but I strongly desire their real, honest criticism of any policy that I put forth.

What are the facts? A prominent newspaper puts into the minds of the people that the Governor is seeking to grab great patronage, he is going to fasten Tammany Hall on the whole State and suppress everybody else. The real fact is that instead of 3,000 positions there are just about 20 more than 300. And I took the trouble to open the wires between the Adjutant-General's office and New York and Albany in order to get these facts and get them down on paper. In the one department they claim to be the great nest of patronage there were less places in it under Colonel Greene in my two years than there were under either Governor Whitman or Governor Miller. And the figures are: In 1918, 800 men employed; in 1919, 200 men — that is my year; under Governor Miller, 406.

That is the answer to it, in a way. The Democratic Party has the great numbers and the great crowd, but look how often they are led away from home by these false stories that come as a result of paid propaganda, the result of actual payment in money to misrepresent. Nothing strikes as forcibly at the foundation stone of democratic government as a wilful and deliberate misrepresentation of facts. A man who cannot win any other way has not any place in the public life of this country; if he cannot win on the record and on the facts, he ought to stop. Because if you carry misrepresentation to its logical conclusion, in the final analysis it means that the greatest liar becomes the greatest man.

I congratulate the School for Democracy in their gathering in New York, and assure them that so far as I am able to speak for it, as one of its citizens, who lives way down town, you are entirely welcome.

Something was said earlier in the evening about women being naturally democrats. I think the twenty year history of the performance of the two parties in this State could well be put out, if believed, as abundant reason for asking women to affiliate with the Democratic Party.

In conclusion, and summing up in a few words, and viewing that record, having in mind that history, it is just this: It is the different point of view with which you approach a thing — the Republican Party in this State by its history and its record believes that law and democracy is some divine and eternal thing that is designed or prepared to protect money, whereas on the other hand democracy or the Democratic Party believe that law in a democracy is the expression of that particular thing that does the most good for the greatest number and goes the furthest to relieve and to protect and care for the great mass of the people who, after all, make up the country.

**At Annual Dinner of the Friendly Sons of St. Patrick, Hotel
Astor, New York City, March 17, 1923**

Mr. Chairman, Your Grace, Congressmen and Guests: No princes are elected. Of course, the toastmaster has a prepared typewritten memorandum for the introduction of every speaker. I thought that there was a standing agreement not to introduce your business at a banquet, but as long as the chairman took occasion to say that the Central Railroad of New Jersey stops at Bound Brook, I think I am only within my rights when I say that the United States Trucking Corporation trucks everything from the Central Railroad of New Jersey that they will permit them to truck.

The subject allotted to me is the State of New York, and it is such a large one that no matter who the man may be, he can find out something new about it every time he gives it his attention.

I was pleased to hear one of the speakers state that our Barge canal was started by an Irishman. I have no doubt that this is true. I certainly know that it is being managed by one now. The man I appointed is Walsh.

I think I am entirely within the truth and the statement I am about to make will be accepted without challenge that on the subject of the State of New York I could probably talk until some time Sunday morning. Therefore, I will glance over it in the aspects and in the deeds that it appeals to me strongest.

On every occasion that I have been asked to speak about the State of New York, I have stressed her activity along the lines of education, because that seems to be something that people deal with as a matter of course, and as citizens of the State we give little at-

tention to the detail. We feel so strongly that it is something we have to do that we never boast about it. Nevertheless, it is a department of State government of which we have abundant reason to be very proud. How many men have stopped in their course of study of the State of New York, to make any computation of what we really spend for educational purposes? It runs up into the hundreds of millions of dollars. The small portion that the State contributes annually towards the salaries of school teachers reached this year the total of thirty-six million dollars, and the annual increment year by year runs as high as five million dollars. Of course, the political figurers count that in addition to the appropriation bill but fail to explain that it is for education, because they know that the sentiment of the people in our State is that no political capital can ever be made by finding fault with what we pay for education. I like to speak about it whenever the occasion presents itself, because I think it is so much to our credit.

I could speak at great length about our public works, our road building program — a model for the whole nation. I could speak of our system for the promotion of child welfare. I could speak about our hospital work and about our factory supervision. But it can be summed up in a few words outlining what I take to be the human program of the State, when I say in all of her activities she cares for the child, for the helpless aged, for the sick and the afflicted, and uses all the power of government for the protection of public health and the promotion of public welfare. So much for the State.

But when we meet on occasions like this, I think I should have some ideas on other subjects. I have some, and I take it as a member of the association that I am free to speak them. If that be true, I desire to say something about restriction on immigration because I feel so strongly against it. And I wish to say something about too severe a literacy test for citizenship, because I am against that too. Supposing our present immigration laws had been in force seventy or seventy-five years ago, where would we be? And supposing too strict a literacy test were placed on the vote, where would some of us be? We have it to our eternal credit that for over a hundred years the bright lights on the sign of welcome have blazed across the broad Atlantic into the homes of the downtrodden, the poor and the oppressed of every land. We have welcomed them; we have cared for them; we have made American citizens of them. Of what greater deed could we boast? The idea that a man must be a student to vote is to my way of thinking, ridiculous. I know a great deal about the men who are in the institutions of our State. They are illiterate. And I hate to think that a man must be able to write in order to vote, because we have some men in these institutions who are too good writers. They are not only able to write their own name but they can write somebody else's name, and that's how they got there.

Now let me see what a good citizen is. How do we measure him? What is the yardstick? What is the standard? I come from a good

old-fashioned downtown neighborhood where the city began. I was down there last night looking over the situation to see if everything was all right. In that neighborhood, I met a great many of our new citizens in my time, and it gave me my idea of a good citizen. I believe him to be the man who puts everything he has in him into the job to which he is dedicated that helps to keep open the channels of trade and of commerce, who raises a family and gives them all that he possibly can to let them have the benefits of an education which he himself was probably denied. A man who pays obedience to his church, who obeys the laws of the State and the ordinances of the city—that is my idea of a good citizen. And whether he can read or write makes very little difference, for he is just as good to this country as the man who takes great pride at some public gathering in pointing to a long and unbroken line of New England ancestry.

At any gathering of this kind, relating to the subject of the development of the State, one would have to deal with the part the men of Irish blood took in that development. I could probably talk on that subject as long as I could on the subject of the State of New York. I met Jim Hoey in Albany the other day and we were talking about this dinner, and he suggested that I say something about Thomas Dongan, the Colonial Governor of New York. And I found upon investigation that the fundamental principles of the charter of the city as it stands to-day are almost identical with the principles upon which the Dongan charter was built. It was a grant of civil liberty and yet the fundamentals set forth by Dongan in the charter of to-day take care only of the growth of the city in order that it may be adapted to six million people and the activity necessary for a government as large as the city government. When the Dongan charter was adopted, everybody in the city lived south of Chambers street. To-day we look upon a wonderful municipality, spreading itself twenty-five miles from the place where we are to-night. And as I think of that great growth and the complex problems of government that it presents, I feel moved to give due regard to the administration that governs it. When the dust and smoke of political battle dies away, when prejudice is thrown to the four winds, when men among themselves speak the honest truth and say what is deep in their hearts, and take into consideration experiences in other cities, it goes without saying that New York City is probably the best governed city in the United States.

On St. Patrick's Day we parade, we celebrate, we have our annual dinner as an occasion for festivity. There is abundant reason for everybody to feel happy, but there is also a solemn responsibility that should come home to us all and it should come with force on every recurring anniversary of St. Patrick's Day, and that responsibility is a proper understanding of our duty. We have to be constantly on the watch that we do our full duty as citizens, and on every anniversary we should renew our pledges of good and worthy citizenship. Let us do everything we can to pledge

obedience to the laws of the State and the Nation and also do justice to our neighbor, and let every one of our business transactions be above the breath of suspicion, because in that way we can turn back to its source the foul breath of prejudice that for years has been directed against us. Moreover, let us remember our duty to teach by lesson and example those who come after us to be worthy and dutiful citizens of a wonderful city, a great State and a great republic.

**Before the Albany Chamber of Commerce, Albany, March 22,
1923**

Mr. Chairman, Mr. Mayor, Members of the Chamber of Commerce: The Chamber of Commerce is probably the oldest business institution or clearing house for business activity that the State knows of. I have been myself a witness to the activity of the Albany Chamber of Commerce. I know what they have done for this city. I know what they have been trying to do, and it is because I have been greatly in sympathy with them that I became a member of the Chamber of Commerce, although I seem to have some peculiar kind of membership that never brings forth a bill for that seven cents a day. If it is still held against me, you better get it in while I am here, and as near the first of the month as possible, because the slight difference between my salary as Governor and a business man make it necessary to see me right around the first of the month.

I conceive it to be the duty of the civic organizations, board of trade, or a chamber of commerce, or under whatever name it may be known, to take up, where the limitations of government must stop. Now it makes no difference how industrious an official may be. It makes no difference how much time he puts in at his job, or how hard his committees may work, or the men under him may work, there is always some work or something that has to be called to his attention by some outside body that is devoting its time and attention almost entirely to those kind of things. And in my long legislative experience I can say to you without fear of contradiction that the approval of a chamber of commerce upon anything that has to do with the locality is a very powerful argument in favor of it, and it probably always will be, because, obviously a chamber of commerce, made up of groups of people in a locality, must be working for the single interests of the place that they represent.

I intend to address a great many chambers of commerce during the next few weeks, and I felt that as long as I was the guest of honor at the chamber of commerce in our own home town here, I probably better say a little to you about what I intend to say to the other chambers of commerce, because I am going to ask their assistance, and I ask their assistance because the matters of which I talk are matters of deep concern not only to this city, but to every city

in the State and to every citizen in the State and to every taxpayer in the State.

The growth and the development of Albany can be arrested, as can any other community, by excessive taxation. There isn't any reason in the world why the State shouldn't have in an appropriate place on Capitol Hill a proper office building. Why can't she get it? She hasn't got the money. Every absolutely necessary thing that comes along from time to time has to be met so everybody is shaking in fear about the size of the budget, and every once in a while somebody gets a notion in their head that possibly if you let everything go and don't do anything and the budget gets way down low, that you might get wonderful credit for something. I stated when I was here before that I would account for every dollar that I accept in the appropriation bill. Is there any reason to worry any too much about the size of it if it is necessary? If you have to build proper hospitals for the care of the sick; if you have to build proper institutions for the care of the feeble-minded and it costs money, what is there to be afraid about it? The State has to do it. It either has to do it, or it has to stop altogether and pass the duty back to the counties and let the people in the communities take upon themselves the burden that the State relieved them of.

I have just three things I want to talk about.

First, is the reorganization of the government. Now when I come before a chamber of commerce, I feel that I am talking to business men, and I like to open up with just this statement, that in my short experience in business with the knowledge that I have gained by talking of it with men I always feel fully within the truth when I make the statement that no business concern in the world could last a year if it transacted its business the way the State is trying to do it.

We have in the government today of this State about one hundred and eighty-six or one hundred and eighty-seven departments. Where can there be any businesslike or scientific management of any such group of different independent spending agencies, all operating along their own lines? Thirty-two bills now pending in the Legislature attempt to consolidate about one hundred of them.

Putting it in a few words, the difficulty with the government is this, that years ago we tied the government up by constitutional provisions, and now that we have grown to our present size and we are spending one hundred and fifty millions a year instead of three or four millions at the time that these constitutional amendments were enacted; we are trying to operate with the same old-time machinery. Aside from the cost of it, nobody can have any understanding of it. Why, there are very few men who come to the Legislature that get any understanding of the government here. Why, you have got to be around here for years. You go out on the corner of State and Pearl street here and stop the first hundred people you meet and ask them who the Land Board is and what the Land Board does in this government. Nobody knows anything about the Land Board. But I sat up in the Capitol in 1920 and I got an Albany evening paper here and I saw at the top of it, "Land

Board met today and bought four hundred thousand dollars worth of land adjoining the Adirondack Preserve." That is the first I ever heard of it. Well, there is a very good reason for that. The Governor has nothing to do with the Land Board. He is not even a member. Last December the Land Board met and decided to withdraw the State's action against the Santa Clara Lumber Company and made the Santa Clara Lumber Company a present of five hundred and seventeen acres of land in the Adirondacks. Did anybody ever find out about a thing like that?

What about the Canal Board? Who knows anything about that? What does that do? Everybody thinks when the Governor is elected that he is going to boss the job. They all come to see him about everything going on in the State, and he has got less to say about some part of it than some members of boards that nobody every hears of.

The Trustees of Public Buildings! I like to think about that, because it makes the Governor the janitor of the Capitol. Where did we get these old-time notions? About twenty-five or thirty years ago there was very little for the Governor to do, and it is a matter of record after the thirty-day bill period ceased some Governors went home and didn't come back here until the late Fall to prepare for the next session of the Legislature. So they started to give the Governor some duties. It might have been all right thirty-five or forty years ago, but it certainly don't fit into the picture today. Is there any reason why he must sign the contract for the removal of the ashes from the power house? The Trustees of Public Buildings is made up of the Governor, the Lieutenant Governor, and the Speaker of the Assembly. Up in the cellar of the Capitol there is a lot of old furniture; some old writing tables and some old typewriting desks that have been appraised at \$1.50. That is probably their full value. We have a very competent and a very capable young Superintendent of Buildings who lives in Green Island. He cannot sell that desk for \$1.50. I have to telephone up to Jefferson County, if the Legislature is out of session, and up to Schenectady, and bring the other two Trustees together and we have to hold a meeting and authorize him to sell that desk for \$1.50.

An interesting part of the Governor's work this morning occurred to me and I said there is no use of being too serious about these things. If a man gets too serious with anything he injures himself. The reason why I can continue to do this work day in and day out is that I get a certain amount of humor out of it, so I said, "I think I will bring down Exhibit A to show some of the duties of the Governor to the Chamber of Commerce so that they can visualize what we mean by reorganization and reconstruction and responsible department heads, a responsible cabinet under the Governor; show them some of these little duties that can be given to the people that can perform them." They are willing to do it, but the law don't allow them to do it.

Now this was brought in to me this morning; laid down on my desk. I am supposed to study it and sign it. Now there it is (indi-

cating). Down there where you see those stamps in the corner it says, "Signed by the Governor; by the President of the State Board of Charities; by the Fiscal Supervisor," and the signatures of the three must be attested by the Governor's Secretary. Now, what is that that I have got to study? That is a rough drawing of a new horse barn at the Rome Custodial Asylum. Here is the way the barn is going to look when it is built. I am supposed to sign the plan and the outside drawing. Of course, obviously, I know nothing about it. When we get a Governor that is an architect sometime in his life he might do something with it.

Now, here is a more elaborate one. (indicating) This is to finish the third floor of the industrial building at the Western House of Refuge at Albion. There are the bath-rooms and bed-rooms all in it. I looked that all over and I signed that.

Now, here is the real job. That is easy. You can look at that and sign it, but here are the specifications of the attendants' home and industrial building at Letchworth Village. I am supposed to read those over and sign them. There is where I have signed them, right on the back. Never looked at them; I haven't got time.

Here are the specifications for machinery for the new laundry at the House of Refuge at Randall's Island, and this is for the sanitary and electric work at the Western House of Refuge. This is the Assembly Hall at Letchworth Village.

Now, that is what the Governor finds himself doing.

Let us visualize for a minute the reorganized and reconstructed government. Nineteen men can sit around the board with the Governor, and the legislative leaders, and you have there somebody representing every activity of the State, every single one. And the most salutary part of the reconstruction constitutional program is the prohibition on the Legislature against creating any more departments.

I cannot think of an activity, after studying it for weeks, I cannot think of a single activity that can ever grow up in this State that cannot be placed into these nineteen different departments, even to the regulation of aviation for flying machines if they ever get so plentiful that we have to have flying policemen to move the "Stop" and "Go" sign.

I think I will put this little touch in and I will put it in without partisan feeling, because in that time everybody has been guilty of it and therefore I put it in without any partisan feeling of any kind. The reason for limiting the number of departments is to take away from all parties the temptation to be creating new departments all the time for patronage purposes. Don't let anybody say it doesn't happen. It happens constantly. There has not been a year in thirty years but that some new board or commission has been created, with its line of secretaries and its chief clerk and plenty of typists that are automatically exempt from the provisions of the civil service law.

Now, is this a new thing? Nothing new about it. It was suggested in the Constitutional Convention in 1915, and the only time

during all that convention that Senator Root came down from the presiding officer's chair to take advantage of his membership in that Body to address that Body was upon this reorganization program. That is a matter of history. He took a different slant and a different angle on it, but one worth while considering and that was he thought it was a forward move in taking the invisible hand away that was operating the government from behind the scene and place upon the elected representative the responsibility the people think he has for all those things, only to find that somebody else can do something he cannot do with the government.

When all the taxing powers were unified under a single commission, that was a forward step taken under Governor Miller to unify a lot of powers spread around all over the lot, — one official collecting one tax, and another official collecting another. Was that a new thing? No. Governor Whitman tried that in 1915. He had the bill introduced, and brought Senator Saxe up from New York, had him ready to be appointed as head of the commission, and the Comptroller went over and had a talk with the members of the Legislature and the bill couldn't pass. Why? Because the Comptroller had just a little more patronage to give out than the Governor had. The bulk of the taxing powers were with the Comptroller and he stopped the bill.

Now, are you going to have any orderly government if that can continue? That happened in the very year that that Constitutional Convention took place and it was used on the floor of the Convention by the delegates to that Body debating this proposition of reorganization of the government. It has been debated ever since. Nobody ever seems to make any argument against it. You cannot get a man in Albany or out of Albany that is willing to get up on the platform here and tell you he thinks the present form of government is all right and that we should retain all these different agencies. Nobody makes any argument against it, but it don't seem to get any place. It goes along by stages. It passed in my last year here in 1920 through both houses of the legislature and when the new Senate came back in 1921 it passed the Senate and it went to death in the Assembly. There is the history. That brings us down to 1923. If the legislature of 1921 accepted it, we would be reorganizing these departments pursuant to that constitutional amendment at this very session of the legislature.

Well, what is happening now? It passed through the Senate and yesterday, or the day before yesterday, the conference in the Assembly decided to tear it to pieces by amendments that destroy the very life and the very vitality of it, that leave it back in the hands of the legislature to reorganize these departments.

Let me take this phase of it for a little. This condition is what is stopping the State from getting good men to take places at the head of the State departments. It is a hard thing to get an upstanding man to take a position in any department. He doesn't want to come into office. The best that he is assured is two years. As soon

as there is a change, everybody out with him. They are supposed to have a term fixed by law. I appointed a Highway Commissioner in 1919 for five years, according to the law. He lasted for a year and nine months, and out he went. And I don't suppose unless the other Highway Commissioner's term expired in April I would have had any chance to get the service of that man back for the State of New York.

Related very closely to the reorganization plan is another very important thing and that is the executive budget. Now, you can never control the finances of this State under our present method. It cannot be done. You cannot let two hundred and one men come up here the first of every January and start to wrestle with the financial problems of the State. I am unable to understand the attitude of the men in the Assembly that yesterday destroyed entirely the executive budget plan, because the members of their own party all through the country are asking for credit, and receiving it, and justly so, for President Harding at Washington because he instituted an executive budget, and it is identical, identical in all its essential respects with the executive budget that was put to death yesterday afternoon at two o'clock. It is a good thing apparently, in the interest of economy in the Nation, but it is a bad thing in this State. Very nearly all the big States in the Union have it. Governor Pinchot in Pennsylvania has just recommended it to the legislature after a report of a committee in his State that had been investigating it for quite a while. And Nassau and Westchester counties that have just been permitted by constitutional amendment to set up a new form of county government, electing a president for a four-year term, have written into the charter the very provisions of the executive budget that was destroyed yesterday, verbatim, line for line. Why? Why, to give the county president some control.

Who should prepare the financial program of this State? Who, outside the Governor, should do it? Two hundred and one men? The Governor ought to present to the legislature on the first of every January, after he has sat down around the table with his nineteen department heads, the exact amount that was required to run the State for the next year, and put beside it the visible income of the State to pay it. Who has any understanding of it the way it is going now? Why, Senator Sage from Albany before the Merchants' Association in the Hotel Astor made the statement that there were not twelve men in the legislature that knew anything about what was in the appropriation bill. And I believe that is so. He ought to know. He was chairman of the Senate Finance Committee for a great many years.

Somebody in the course of debate said something about taking away from the legislature some of its power. That is absolutely not true; absolutely not true. The legislature can increase any item it likes. It can decrease any item it likes, and after provision is made for the support of government, it can pass all the appropriation bills that it pleases. But it is a little regulation on the way they do

it. It ought to stand up so that every taxpayer and every chamber of commerce and every citizen can know what they are doing. Under the present system anything is possible. In 1920, I vetoed a bill for a highway bridge in Wayne County, and in vetoing it I vetoed it in the interest of Albany County and every other county, outside of Wayne, because there was no obligation on the State to build that bridge. They had a campaign up there and one of the candidates went around through the Village of Lyons and told everybody that when they get Smith out of the Capitol they would get the bridge. I watched to see if they would get the bridge. No bill passed giving it to them; not a thing. While I was on the tour last Fall I was down in Oneonta and I met a friend of mine and he said, "Well, Wayne County got the bridge." "Oh," I said, "Never on your life." "Yes, sir; it is being built." "Not by the State." He said, "Yes, sir." "No, it cannot be; no bill passed." I called up a man in Albany and I put him to work on every appropriation bill that went through up there that year and it took him about eleven hours to find the appropriation for that bridge, hid in the maintenance and construction of highways. Now, if regulation that makes that bridge stand up where we can all get a look at it is putting any restriction on legislative power, I would like somebody to explain it.

Related to the executive budget and to the reorganization is another important constitutional amendment,—the last one I am going to speak about today, and that is the four-year term for the Governor.

Now, it seems to me that if there was a man in the world that could find an argument against that thing, I could find it after twenty years up here, being in, being out, and being in again. Seeing others come in and go out. Some come in again and some stay out. I would at least be able to make some argument against the four-year term if such a thing could be made. But there is no argument that can be made against it.

Now, the point about it is just this. This is just the cold, hard, business, commonsense of the thing. The term of the Governor was fixed about seventy years ago. Two years was a long time in the governorship seventy years ago. The legislature was never here one hundred days out of the year. That was the very maximum. He had very little to do. He didn't have any policies to formulate. It was a routine job. Two years looked as good as ten to him. But today, you bring a man up to Albany here and you sat him in the Governor's chair and unless he has been in the legislature for a long while, I don't care who he is, nor I don't care what his ability is, he cannot have any understanding of this thing in his first term. It isn't possible. The man doesn't live who can do it. We have had some brilliant governors in my time up here who in two years admitted themselves that they didn't quite have an understanding of it.

You come in here on the 1st of January. You are receiving New Years callers for about two weeks. You cannot get away from it

unless you want to lock yourself in and see nobody. Then you have the legislature on your hands for two or three months. Then you have the thirty-day bill period where you are confined to one room practically for a month going over the different bills that are left there. In 1920, I had nine hundred of them. It took three months to pass them and I had four weeks to put my name on them either to sign or veto. Then the Summer comes along and the first thing you know you are ready for the next session of the legislature. It takes you all the Fall to formulate your policies, prepare your message, get reports from your departments that are part of the message, reports from your departments on requested appropriations, and along comes the legislature again. Just as soon as the legislature adjourns the second time, you are running for Governor again. You cannot get away from it.

Now then, what is the final picture? The final picture is a reasonable term of four years for the Governor, a cabinet of nineteen men, each at the head of a single activity and comprehending within the nineteen all the activities of the State; an executive budget prepared by the Governor and by the nineteen men showing the needs of their departments, and the Comptroller showing the estimated revenue of the State. In that way you will get an understandable and intelligent, and I will take a chance and say, an economical form of government; something that you never can get under the present broken-down, loose-jointed, disorganized, all-over-the-lot, form of government we are struggling along here with the great possible difficulty.

The Governor by Radio Broadcasts an Accounting to the People of the State, of Appropriations Made by the Legislature and Approved by Him; Albany, June 9, 1923

There is nothing less interesting to our people than financial reports because, as prepared by bookkeepers and accountants, they are not understandable to the ordinary man. To comprehend them thoroughly, one must have not only an understanding of the government of the State itself, but must be able to comprehend technical terms used in financial reports. For that reason I will endeavor to explain appropriations of this year in such manner as to make them easily understandable to everyone.

If a State administration desires to make a financial record — by that I mean a reputation for reducing the cost of government — it can easily be done either by making inadequate appropriations for needed activities or failing entirely to make appropriations for known wants of the State. This record, however, must of necessity be temporary, as the inadequate appropriations have to be met by deficiencies the next year and known wants of the State must likewise be taken care of in the next year. I will show by facts and figures that the attempt at a record of economy on the

part of the last administration is in the main responsible for the size of the appropriations this year.

No matter who was elected last fall, if all of the needs and necessities of the State government were cared for this year and there were added to them the deficiencies from last year, the total appropriations of this year could not be any lower than those contained in the general appropriation bill and the various supplemental appropriations which received my approval. Any statement to the contrary must be regarded as being made for political purposes, as both parties were compelled by the complexion of the Senate and Assembly to share equally the responsibility for every dollar appropriated by the Legislature and approved by the Governor in 1923.

In order that the people will have a proper picture of appropriations, the total increases in my year amount to \$31,625,121.70. This includes the items that I was obliged to make good on and pay, due to the failure of the previous administration to provide for them; the natural increases in departments and institutions; the items of special construction which were found necessary; items for new activities of government and the items for highways. Governor Miller last year had certain items that did not need to be provided for this year. The debt service, which is mandatory, cost \$645,890.00 more during Governor Miller's last year than during my year. The State's share of rural post roads was \$1,750,000.00 more last year than this year. The tunnel between New York and New Jersey cost \$3,500,000.00 more last year than this year. The Harlem river improvement cost \$1,500,000.00 last year; it being unnecessary to appropriate anything this year. The Schenectady-Scotia bridge cost \$480,000.00 last year and this year but \$150,000.00 to complete. These items, with several small items, make up \$8,393,620.36, which was provided in 1922, and was unnecessary to provide this year. The subtraction of these two items again brings you back to \$23,234,559.34.

It will be to this increase and its causes to which I will direct my explanation. It will be divided into eight classes:

1. Departmental and institutional increases.
2. New and necessary activities undertaken by the government.
3. Mandatory increases in payment to school teachers occasioned by the increase in their number which is of yearly occurrence.
4. Appropriations made this year that should have been made last year in order to carry on work which the State had already begun.
5. Appropriations to meet deficiencies growing out of appropriations made last year which were insufficient to carry the State through its fiscal year.
6. Acquisition of real estate.
7. Highways—maintenance and construction.
8. Payment by the State for tubercular cattle slaughtered.

1. Departmental and Institutional Increases

I will first outline all increases in personnel, because I anticipate that for political purposes statements may be made charging the

increase in this appropriation to the creation of positions. These increases occur in State departments and in State institutions.

Taking the departments first, the total increase in personal service is \$1,485,714 18

This amount is made up as follows:

State Labor Department:

During the campaign, I repeatedly made the statement that the efficiency of the State Labor Department was reduced to a minimum by lack of proper and adequate appropriations. This campaign statement was entirely within the truth, because it was found necessary after a study of the Department to appropriate in addition to what was appropriated last year.. \$556,670 00

This amount having the full and complete approval of the Republican leaders of the Assembly.

Conservation Commission:

For the reemployment of game protectors, forest rangers and fire observers, there was appropriated 64,505 00

This meets an absolute deficiency in service in last year's appropriation for the proper protection and preservation of our forest lands.

Department of Public Works:

While the last administration opened up the grain elevator at Gowanus, they made only partial provision for the fiscal year. The appropriations made for lock operators and other employees on the Canal were made for part of the year. That necessitated an emergency appropriation this year, accounted for in another item to prepare the Canal for operation. In order to provide for operation of the grain elevator during a full year and keep the machinery and locks of the Canal in repair throughout the year, there was a necessary increase in the personal service of..... 385,000 00

This obviates the necessity for the penny wise and pound foolish policy of saving some salaries during the winter time, only to be compelled later to put the same or a greater amount into extraordinary repairs in order that the Canal may be ready for operation.

Statutory increases occurring annually in State Normal Schools and necessary additions in the Department of Education..... 158,380 00

Cornell College of Agriculture for personal service and necessary employees for new buildings just opened and certain positions transferred to Cornell from Department of Farms and Markets..... 154,630 00

Department of Architecture for additional help to meet enlarged construction program..... 43,200 00

In the maintenance and operation of State departments, there is an increase of..... \$2,115,676 28

This is reflected by more adequate appropriations to prevent deficiencies next year. The enormous deficiencies from last year are almost a complete answer to this necessary increase.

Increases in personal service occur also in the institutions. It has been freely spoken of throughout the State, and it is generally understood that the ward attendants, nurses and other employees who come in direct contact with the insane in our State hospitals, as well as the same character of help in other institutions, are notoriously underpaid. In order that their salaries may be commensurate with their important work and in order that there may be an inducement to trained workers to remain in the State's employ, it was necessary to provide for increases on a sliding scale fixed by law. It was also necessary to provide for additional employees to meet the normal increase in institutional population. These conditions caused an increase to meet additions in personal service in institutions amounting to.....

\$1,667,368 00

Under maintenance and operation, there is an increase of... \$1,590,417 92

This is an absolute necessity in order to meet the increase in population since last year in all of the State institutions and is intended for food, fuel, clothing and supplies generally.

One of the most important items of expense to the State of New York is the construction and repair of State institutions. In 1922 the total amount appropriated from the general fund for the construction of prisons, hospitals for the insane, and institutions generally was.....

\$2,511,000 00

This year there was appropriated for the same purpose

7,152,955 00

or an increase of..... \$4,641,955 00

Every public official, who has in any way been connected with the institutions of the State, is in accord with the belief that absolutely inadequate appropriations were made for this purpose by the last administration. The public appreciates that buildings lacking necessary physical care, rapidly deteriorate to a point where repairs are more costly than if promptly applied at the right time.

I am entirely within the truth when I say that hospital development and institutional construction were practically halted by the last administration. To make good that statement, we have but to look at the figures.

During my first term I approved:

For Prisons	\$2,337,600 00
For Hospitals for the Insane.....	8,968,000 00
For Institutions	1,956,000 00

The last administration approved:

For Prisons	1,062,000 00
For Hospitals for the Insane.....	4,389,000 00
For Institutions	587,000 00

This year I have approved:

For Prisons	547,850 00
For Hospitals for the Insane.....	5,121,720 00
For Institutions	1,483,385 00

There was no let-up during the last administration in the necessity for this construction. It really comes under the head of what I have referred to as "deferred appropriations."

A great many of the buildings of our State hospitals and institutions have outgrown their usefulness, as I made clear to the people of this State in a special message to the Legislature. If we are to reduce the fire hazard, many of the buildings must be torn down and rebuilt in order to bring them up to date. The recent fire on Ward's Island, with the attendant loss of life, is a fair sample of the hazard which exists practically throughout the State in all of our old-time institutions, and but very few of them are of modern construction.

I appreciate that it would be unfair to the taxpayers of today to ask them to meet the cost of entirely new construction during one generation. I have accordingly recommended the submission to the people this fall of a proposal to bond the State for fifty million dollars in order that the State may replace worn-out fire traps with modern steel and concrete structures, destined to last for hundreds of years and constructed to provide safety and comfort for the unfortunate wards of the State.

2. *New and Necessary Activities Undertaken by the Government*

For the first time in the history of the State, the International Dairy Show is to be held at Syracuse. To house the exhibition and to promote similar activities within the State for the years to come, we are building a colosseum on the State Fair Grounds to cost.....	\$500,000 00
For a Ranger School for the College of Forestry at Syracuse, deemed to be absolutely necessary in order to provide decent and comfortable housing for the students.....	200,000 00
For the improvement of Canisteo River running through a large section of the State to prevent the loss of life and property in the future by flood, similar to what has occurred in the past	250,000 00
For the improvement of Shinnecock Bay to keep alive the fish and oyster industry and protect the public health.....	40,000 00
For a grain elevator on the Barge Canal at the City of Troy..	300,000 00
For a coal tippie at Ithaca and Watkins on the Barge Canal..	10,500 00
For the construction of a restaurant in the Capitol for the convenience of the members of the Legislature, State employees, and the public generally.....	62,500 00
For the removal of the unsightly fence at the back of the Capitol and making provisions for parking the grounds in keeping with the dignity of the Capitol Building and the Education Building	10,000 00
For the control of the Gypsy Moth invading our State from the Massachusetts Border.....	150,000 00
To begin the construction of a bridge across the Hudson river at Poughkeepsie necessary for the relief of traffic on the east bank of the Hudson river.....	200,000 00
To provide a proper approach to the bridge at Watervliet....	25,000 00

3. *Mandatory Increases in Payment to School Teachers Occasioned by the Increase in Their Number which is of Yearly Occurrence.*

The increase in appropriation over last year amounts to..... \$2,035,000 00

4. *Appropriations Made this Year that Should Have Been Made Last Year in Order to Carry on Work which the State Had Already Begun.*

Oswego Canal Terminal:

The foundations for this terminal were constructed in time for appropriation last year. None was made, and that necessitated an appropriation this year of..... \$1,307,000 00

Elimination of Grade Crossings:

No appropriation was made for this purpose last year with the exception of a small appropriation of \$175,000 for a specified grade crossing in the city of Jamestown. Under the law, the State pays one-fourth of this cost, the county one-fourth, and the railroad one-half. For the preservation of life and limb on the highways and to meet the crowded condition at grade crossings because of the great increase in the number of automobiles, this work should be carried on; and in order that there may be four million dollars' worth of it authorized, I suggested to the Legislature and accepted from them a bill carrying..... 1,000,000 00

In 1920 I approved an authorization of \$3,000,000 for additional buildings at Cornell University and appropriated immediately \$500,000 for the first building. Last year no appropriation was made, although plans were drawn and ready for what is known as the Plant Industry Building. This year I approved a bill for 500,000 00

Last year \$1,000,000 was appropriated for the construction of hydro-electric plants at Crescent Dam and Vischer's Ferry on the canal. Only \$1,000,000 was appropriated, although it must have been known to the engineers at that time that that was an inadequate amount to carry through the improvement. In order to provide the necessary units to make the development complete, it was necessary for me this year to accept an appropriation of..... 710,000 00

5. *Appropriations to Meet Deficiencies Growing Out of Appropriations Made Last Year Which Were Insufficient to Carry the State Through Its Fiscal Year*

Some of these items were unknown and could not be anticipated by the Legislature of 1922. Many of them could, because the administration had before it experience and knowledge that suggested higher appropriations; but in order to claim credit for economy the administration neglected to make adequate provision for these items. They are as follows:

To the office of the Secretary of State:

For printing \$101,000 00
The Legislature of 1922 amended the Stock Corporation Law, but provided no funds to carry into effect the new provisions; therefore, this year we were obliged to appropriate for this bureau..... 15,000 00

In the office of the Attorney-General:

For deficiency in appropriation for special counsel..... 31,000 00
The Legislature of 1922 made no provision whatever for judgments filed against the State in the Court of Claims. To meet this, there was appropriated this year..... 100,000 00

To bring the Labor Department immediately up to the standard of efficiency which it should attain, and to provide until July, 1923, the necessary employees which the previous administration neglected to provide for.....	\$150,000 00
To the State Tax Commission:	
For the purchase of number plates for automobiles for last year, an item which the administration failed entirely to appropriate	195,100 00
To the Education Department:	
For printing and for institutions for the deaf, dumb and blind for which inadequate appropriation was made last year	62,000 00
For the mandatory increase in payments to teachers, occasioned by the increase in number, it was necessary to provide the additional amount of.....	875,000 00
To Cornell University:	
For fuel made necessary by what appears to be a deliberate cutting down of a known necessary appropriation.....	27,000 00
For the board of prisoners in penitentiaries for which no appropriation was made last year, although it must have been known that it would be needed within the fiscal year.....	100,000 00
To the Conservation Commission:	
To repair the waste growing out of false economy and to bring the department up to standard during the months prior to July, 1923.....	38,300 00
Inadequate appropriation was made to county treasurers for the payment of taxes on public lands, necessitating the increased appropriation of.....	125,000 00
To the Department of Public Works:	
Canal fund	675,972 00

In this department false economy was practiced throughout the entire department to the detriment of the canal systems. Provision was made for only sufficient funds to carry the employees until the close of the season. Thus the locks, the lock machinery, the movable dams and aids to navigation were neglected when the canal closed. The new Superintendent of Public Works, when he took office, was confronted with the fact that in many places in the canal there was less than nine feet of water. The Gowanus elevator was opened with insufficient funds to operate it. The mechanical equipment purchased by the prior administration was found to be practically useless, due to neglect or due to its age before purchase. Thus, to open the canal and to place it upon a proper operating basis, was one of the most important items resulting from false economy that confronted this administration. The State Engineer sent a surveying force to make a report, so that an estimate could be given on the cost of dredging, and his report evidenced the fact that to place the canal back in the condition in which it was at the end of my prior administration would cost over \$1,000,000. The appropriations contain two items for dredging, one in the immediately available section of \$200,000, and one in the section of the bills for the next fiscal year of \$300,000—this being all the money that could be economically spent this calendar year to place the canal in operation, but it by no means provides the funds necessary to return the canal to the condition in which my superintendent left it.

It was necessary to supply \$50,000 for the operation of the Gowanus Bay grain elevator from February 15 to July 1 this year.

It was necessary in order to put the floating plant, that is, the dredges, tugs and floating equipment in condition to open the season of navigation and to operate them until July 1—\$100,000.

It was found necessary to supply \$25,000 for towing on Oneida lake between the opening of the canal and July 1 this year.

It was necessary to supply \$50,000 to provide the section and maintenance force.

It was necessary to appropriate \$250,000 to make the ordinary repairs along the neglected canal.

6. *Acquisition of Real Estate.*

Military Camp at Peekskill:

The last administration purchased a piece of land adjoining the State Camp at Peekskill, and agreed to pay for it on the installment plan, paying interest on the amounts due and the taxes, which in reality amounted to a bonus to the owners of the land for the privilege of so paying. Nothing could be more ridiculous than the great State of New York in the interest of a false economy, delaying the payment of an obligation and increasing its ultimate cost to the taxpayers. I deemed it good business judgment to purchase the land outright, making a saving to the taxpayers over a period of ten years of about \$44,000. To do this, there was appropriated \$135,500 00

The State rents property throughout the State for headquarters or barracks for the State Police. We have been paying a rental of \$45,000 a year. I found that the barracks could be purchased by the State for \$480,200, and I deemed it good business judgment to buy them outright. In about ten years we will have paid their full value in rent, and they would still be outside of our control. To bring this about, the amount is appropriated..... 480,200 00

The rapid growth of our State and the development of its outlying sections suggests that land for park purposes where it can be purchased cheaply should be acquired by the State, looking to a comprehensive park development for the future. The advent of the automobile and its general use by all classes of our citizens, makes necessary camping grounds and breathing spaces where the people can get away from the congestion of great centers of population. As a wise move, looking to the future, generous appropriations should be made while the land is cheap. The last administration appropriated \$45,000 for this purpose. I am satisfied that I acted in the best interests of the people of to-day as well as the generations to come, when I recommended and accepted a bill to acquire park lands widely distributed throughout the State in the sum of..... 850,000 00

In 1920 I committed the State to an appropriation of \$1,000,000 to match another \$1,000,000 raised by private subscriptions for additions and betterments to Palisades Park at Bear Mountain on the Hudson. Aside from the Catskills and the Adirondacks, this is the greatest natural park in our State. It is visited annually by millions of people. Improved highways and a new bridge will make it more easily accessible; in fact, it already is to the people in the entire southern part of the State who are now its patrons. In my last administration I made available \$500,000 of the \$1,000,000 promised. Private individuals raised and paid in their million. The last administration neglected to carry out the State's bargain. I have carried it out this year by recommending and approving a bill for..... 500,000 00

7. Highways — Maintenance and Construction

Because of the importance of a connected system of State highways for the benefit of city and country alike, I have deemed it wise to deal with it in a separate section of this message.

Repair and maintenance of existing improved highways:

Because of an inadequate appropriation made last year for this purpose, it was necessary to appropriate \$1,850,000 more than was appropriated for the same purpose last year.	\$1,850,000 00
In order to meet an emergency growing out of the severe winter where the sudden thaw blistered the bituminous roads so that they easily fell victims of the heavy truck.....	1,000,000 00
There is an increase in the item known as State Aid to Counties for road building, made necessary by increased mileage, of	135,030 00
There is a similar item for the same reason in State Aid to Towns for road building.....	95,000 00
There is a decrease in the State's share for the construction of post roads of.....	1,750,000 00
New road construction last year was carried on with the last money of a bond issue. That made necessary this year direct appropriation in the absence of bond money, which appropriation comes from the general fund and amounts to.....	3,000,000 00
For a road near Saranac lake, leading up to the Veterans' Camp where our returned soldiers afflicted with tuberculosis are to be cared for.....	150,000 00
For road purposes within the State fair ground, at Syracuse..	70,000 00
For the construction of a retaining wall to protect the State's investment in a highway in the village of Belmont.....	75,000 00
For a survey of all bridges on the highways of the State for the purpose of ascertaining their exact condition as to the need for repairs or replacements.....	15,000 00
For the Kings, Queens and Nassau Boulevard, which is really the construction of an improved State highway over what is known as the "pipe line" from Massapequa, Long Island, into the City of New York, ordered constructed in 1921. In 1922 \$6,000 was appropriated for a survey. This year I approved of a sum sufficient to grade and prepare the thirty-mile highway for final development, amounting to.....	300,000 00
For the completion of what is known as the Three River Road in the County of Onondaga, in order that there may be a proper connection immediately made to an existing system.,	15,000 00
Total appropriation for highways made last year.....	\$17,617,160 00
Total appropriation for all highways made by this administration is	22,561,190 00
Total increase is.....	\$4,944,030 00

After consultation with the Highway Commissioner, and after a careful survey by the Commissioner and his engineers, all of the above amount was deemed absolutely necessary.

8. *Payment by the State for Tubercular Cattle Slaughtered*

For the preservation of the public health and the protection of the dairy herds of the State, the State has adopted the policy of destroying cattle found to be afflicted with tuberculosis and indemnifying the owner at State expense. In 1922 the Legislature appropriated \$1,336,427. The last claim that could be paid pursuant to this appropriation was incurred in January, 1922, so that the Legislature and the administration, with a full knowledge that the Department of Farms and Markets was to continue the slaughter of tubercular cattle beyond that period, made no provision for future payments, and claims against the State carrying six per cent interest mounted up during the year 1922 and made it necessary to appropriate this year for claims filed against the State. Not only did the last administration fail to provide for the fiscal year beginning 1922 but it failed to make any for the last half of previous year. This made it necessary to cover a year and a half by appropriation of.....		\$2,800,000 00
In order that there may not be a continuation of such policy, and in order to prevent the piling up of interest charges against the State, I recommended to the Legislature not only that we meet the deficiency caused by the neglect of the last administration, but that ample provision be made for the next fiscal year. Accordingly, I approved an item of.....		2,200,000 00
This makes in all, appropriations by the Legislature of 1923 for the payment of indemnities to farmers for slaughtered cattle, a grand total of.....		<u>\$5,000,000 00</u>

I very earnestly hope that I have made the situation clear. Let us get away from figures for a little while, and talk policies.

The government of the State is constantly growing. Its activities are constantly increasing. Each succeeding Legislature, by the passage of new laws, adds to the burden of government. The cost of government has gone up all over the country. At Washington and in all of our cities, towns and villages, the growth of population and new activities are reflected in an annual increase in the cost of labor and of maintenance.

It is idle to suppose that any great saving can be permanently effected in the cost of our government until we reorganize it. Its reduction from 187 independent spending agencies to 20 departments is comprehended within the amendment to the Constitution adopted by the last Legislature and the reorganization program which I have consistently advocated. Until these are adopted there can be no lasting or permanent decrease in the cost of maintaining the government of this State. And when an administration makes the absurd claim of having reduced its cost by twenty odd millions of dollars, the State might well prepare itself to have that amount confronting us for payment later when the day of reckoning arrives, as it must. There is no economy in deferring appropriations. There is no economy in making inadequate appropriations. There is no economy in neglecting the known wants of the State.

The State of New York wants to do its full duty in all of its institutions for the sick, the poor, and the afflicted, who are the objects of its special care. It wants to maintain its great public works, its great Department of Education, and perform all of the service it offers to the people of the State at one hundred per cent of efficiency, and it has been my experience that the people of the State find fault only with the wasted dollar and not the appropriated dollar that brings one hundred per cent of service. That a full, complete return will be made to the people of this State for every dollar appropriated is the sincere and honest pledge of the present administration.

On the Occasion of the Breaking of Ground for the Military Memorial Hospital at Kings Park, July 4, 1923

Mr. Chairman, Members of the American Legion, ex-Service Men and Fellow-Citizens: I can think of no more appropriate manner in which to celebrate this national holiday than the way we are celebrating it here on Long Island today. Throughout every State in the Union the anniversary of the passage of the Declaration of Independence is, in some form or other, being celebrated. History tells us that while that document was being drawn up in Philadelphia in 1776, a great gloom settled over that city. In our day it is almost impossible for us to understand the reason for that, because we have become accustomed to our independence without having to make any of the great sacrifices which those early Americans were called upon to make. One must imagine that it was a time of great joy to them, as the anniversary of that occasion is now observed with joyous celebration. But there was a reason and an occasion for the gloom that settled over the State House in Philadelphia in 1776.

Undoubtedly those patriots had in mind the grave responsibility that they were assuming when they declared that a government derives its power only from the consent of the governed; when they declared that all men were created equal. They must have had in mind the struggle that would be required to prove that that was a sound principle. In the short period of years that passed from 1776 to 1861, we find the Nation divided upon the issue, as Lincoln has put it: "Testing whether or not a nation so conceived and so dedicated can long endure." Again in 1917 we were called upon to defend that principle and we have brought before us to-day in a very clear manner the exact result of what it meant to send the boys from this side to the other to demonstrate that no government can live without the consent of the governed.

We can never be charged with a lack of proper gratitude to the men who gave themselves to this country. That charge certainly cannot be made and, with the help of God Himself, no man or group of men may at any time be able to make that charge against us.

The hospital which is to be raised upon this site is not the State's only contribution to the ex-service men. This hospital is just one

endeavor for the relief of our veterans. The same Legislature that passed the act making possible the erection of this unit also approved the appropriation of \$1,000,000 for use in the various assembly districts for veterans' welfare work. Appropriations have been made to the Department of Education for rehabilitation and vocational work beginning with the year 1919.

I feel happy over the success of these plans because I feel so strongly in my heart that the ex-service men who are here on this platform will give their time and their assistance to the State of New York in putting this project through. We are fortunate in having at the head of the State Hospital Commission a man who is well trained in this particular service. We are fortunate in having a good Superintendent in this Hospital. We are particularly happy to know that we have a State Architect who will personally supervise the work and who is himself an ex-service man.

On the 1st of January there were approximately 1,000 mentally disabled veterans spread out in the State Hospitals from Kings Park to Buffalo. There was an attempt made to bring these men together but unfortunately this was resisted by the parents, relatives and friends of the insane veterans, who did not want them taken away from nearby hospitals to any one place. It is my opinion that one of the duties that lies directly before the Department Commander of the American Legion and his assistants is, to impress on the parents and relatives of these men that is the place to bring them. It is far better for them to come here together where they can all be treated to the best advantage and returned to useful citizenship than to have them spread out over the state. Then again, these men are all of the same age and are similarly afflicted and if they can be treated at all and permanently cured—and that's the goal we're fighting for—it can best be done by the State by having them here together where the best and most scientific treatment can be brought to bear upon them.

In 1894 the State, by constitutional amendment, took over from the counties of the state the great responsibility of the care of the mentally afflicted. I have not been entirely satisfied with the way in which the State has discharged that duty and I have frequently said so in various parts of the state. I have always been of the opinion that in the sacred obligation that the State assumed, it should never stint in appropriations because the people of this state want that job done properly. In November there will be submitted to the people of the state a proposal to bond the State for \$50,000,000. That \$50,000,000 is to be used not only for the erecting of additional buildings which will do away with the overcrowding in the State Hospitals, but also to rebuild some of them which constitute at present a fire-menace which the people of the state are unwilling to assume. This proposal should be voted upon favorably by the people, but will require, probably, a campaign of education in order that our people may have a proper understanding as to the necessity for this bond issue. Assistance in this campaign might also be given by the State Commander and the American Legion.

I promise here to-day to do my full share in this work of aiding the ex-soldiers and I feel sure that all those in possession of the facts will do their full share. Now then, let us hope that this work will progress rapidly. Let us hope that from whatever branch of the service they may come these men may be restored to mental and physical health, and let us here resolve that each of us will do his full and complete share.

Dr. Garvin, I have been requested to present this entrenching tool to you with the suggestion that it be placed in the new institution where all those who come after us may be able to see evidence of the State's gratitude to her former service men.

Commander Callan presents Governor with loving cup on behalf of American Legion.

I am sure, Commander Callan, that anything I could say would be entirely inadequate to express my feelings for this souvenir of the occasion. Coming from the source it does, makes it immensely valuable to me. I will never be able to win one of these playing golf so this is about the only way I can get one.

It is one of the many pleasures of this kind that form the rosy path that goes with the onerous duties of Governor. There is a satisfaction in everything; in a day's work well done, in a duty well performed. It comes in these little tokens of affection.

I left and went home once before but had to return and bring my things back again. I hope that when I leave again this token of affection may go with me as a token of the good will of the American Legion.

Before the Society of Tammany at Tammany Hall, New York City, July 4, 1923

In accordance with its well known custom the Tammany Society meets to-day in the great wigwam to celebrate the greatest of American holidays. This holiday above all others makes a special appeal to the patriotism and the national pride of every loyal American.

Independence Day, the Fourth of July, is observed in every State in the Union as our distinctive national holiday and that is as it should be, for the event which it celebrates is the most important in American history. It is in fact the birthday of the nation.

It was on July 4th, 1776, that the Continental Congress assembled at Philadelphia passed the resolution known as the Declaration of Independence after having had it under consideration for some time. It stands to-day as the most remarkable State paper in all the history of the world.

While the Continental Congress was in session at the State House in the City of Philadelphia, history tells us that gloom settled over that city and we interpret that as meaning that the people there assembled had a full sense of the responsibility that the thirteen states were assuming when they declared their independence. In all human probability, they foresaw that it would have to be defended in the years to come with the wealth and man-power of the nation.

In fact, when in 1861 the American Nation found itself in the whirlpool of a bloody Civil War, the issue involved was a defense of the cardinal principles of that Declaration of Independence. Lincoln himself set it forth when he said that the Civil War was testing whether a nation conceived in liberty and dedicated to the proposition that all men are created equal can long endure.

The passage of the Declaration of Independence in the Continental Congress was not an occasion for great merriment, but rather was one for solemn thought because that declaration was extremely radical in the political theories that it advanced. We have not in our time the keen appreciation of the revolutionary thought embodied in the Declaration of Independence because we have grown accustomed to it and have been the beneficiaries of the form of government instituted by it without suffering any of the hardships that brought it about.

Let me read what in my opinion is the real meat of the Declaration: "We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights governments are instituted among men deriving their just powers from the consent of the governed."

What could be more revolutionary at that time than the expression of the belief that the power of government came from the people themselves? All the world was educated to a belief in the divine right of kings not only to hold the throne and rule from it, but to pass it down through their families with all the power that went with it. It was nevertheless as true at that time as it is to-day that no democratic form of government can last unless its power springs directly from the majority rule of all the people governed.

The sharp contrast between the accepted condition and the new one was set forth by James Bryce, at one time Ambassador from England to this country, who when speaking about the better understanding between the two countries brought about by the Declaration of Independence and the revolution that followed it, said, "On the one side there was a monarch and a ruling caste and on the other side there was a people."

History has established beyond reasonable doubt that Jefferson wrote the Declaration of Independence, but it is also a fact that it contained nothing new, reducing to resolution form the history of the abuses that the people had complained of for years before its passage. Many of the complaints cited against a foreign rule were matters which previous to that time had been subjects of discussion in the Continental Congress. Many of them were embodied in resolutions adopted in various of the thirteen States and forwarded to the Congress for consideration. In fact some of our historians say that the Declaration was written in haste and for that reason the passage declaring that "all men are created equal" should have read "politically equal." That was what was intended and what was generally accepted by the people at that time.

The immediate effect of the passage of the Declaration of Independence was to establish America in a new light before the whole world. Instead of rebels fighting against their own government they were free people battling for their own independence. The Declaration of Independence after all was in the nature of a political platform and was nothing more than the setting forth of a political principle, and in order that the blessings that flow from that declaration might be guaranteed to posterity a constitution was adopted to give life and vigor to these principles. We find the salient features of the Declaration of Independence guaranteed by the Constitution in the sentences that preserve for us freedom of political action, freedom of religious belief, freedom of personal rights, freedom of assembly and speech, all our rights of trial by jury, our rights to the writ of habeas corpus, and protection of our right to be deprived only by due process of law, of life, liberty or property. The Constitution was intended to protect the minority from the tyranny of the majority. On the other hand it was also intended to safeguard the rights of an unorganized majority as against what could be the tyranny of a minority.

The Constitution of the United States is a simple and easily understandable document. All that it seeks to do, in fact all that it does, is set forth in its preamble: "We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and posterity, do ordain and establish this Constitution of the United States of America."

In spite of the fact that our government is built upon principles that admit of no discussion, human frailties have brought about enemies without and within. To my mind, our fear, if we are to have one, must come from the activity of those within our own ranks. They are divided into two classes. The ignorant and the wilful. Education and its progress will take care of them both. They build their hopes of success upon the popular fallacy that there is in this country a ruling class. No man or set of men rules this country. That argument is an appeal to popular passion and prejudice and the thought that they desire to plant in the minds of the gullible is that wealth is a ruling force in this country. Nothing could be further from the truth. If ever a country in all of the universe was ruled by the plain people that make it up, it is the United States of America. Ours is a land of equal opportunity and that means that opportunity is accorded to the rich and poor alike and as a cold matter of fact no man of great wealth has ever been elected President of this country and some of the brightest passages in our history record the elevation to high office of men from humble surroundings.

Now after 147 years of experience in democratic constitutional government we note a tendency among progressives in all parties to go back to the principles of Jeffersonian democracy as a refuge from the oppression of privilege. What is the demand to bring the govern-

ment back to the people but a demand for return to the principles of democracy as set forth in the Declaration of Independence? Nothing is clearer to-day than that the only type of government which is stable and lasting in the long run is that which receives its sanction from the majority of the people.

I could spend a great deal of time outlining to you how successful we have been as a nation during the comparatively short period of our national life. When our Constitution was adopted in 1789 the population of the whole country was less than half of the population of Greater New York to-day. It can all be summed up in a few words when we say that America to-day leads the world and that it is the commercial and financial center of the universe and each recurring anniversary of that memorable day in our history should bring home to us the lesson of our duty.

Liberty is an elusive thing. It is something that must be guarded and protected. As eternal vigilance is the price of our soul's salvation, so it is the price of our liberty. Let us therefore on this day, as a lesson and an inspiration to the youth of the country, once more proclaim our allegiance to the immortal document—to the constitution that sustains it, and to the flag that represents them both, and when we retire to our homes let us thank God for His watchful care of our country since its discovery, and let us pray for His blessing upon our future, asking it all in the name of His Divine Son who gave the world the greatest lesson and example of the equality of men.

Before the New York State Federation of Labor, Plattsburg, August 28, 1923

Mr. Chairman, Reverend Father Duffy, Delegates to the Convention, and Visitors: This is very nearly an annual event with me. Unfortunately, I was unable to go to Poughkeepsie this time a year ago because I was unable to walk. I met Governor Miller after election down at Absecon, New Jersey, and I told him that I couldn't walk for five weeks before the State Convention. He said, "You did pretty well when you started."

Of course, we all believe in organization. The Government itself is organized. The Church is highly organized. Business is organized, not only as a whole, but it is organized in its various branches, so that organization may be made smooth and easy running and perfect and certain of accomplishment. In view of that, there is nothing left for labor to do but to organize.

There is a popular misconception of the purposes of organized government, particularly in the minds of a great many people who believe that organization among the classes of labor is intended primarily to promote a selfish interest. That is not entirely true. It is not partly true. The great bulk of the beneficent legislation enacted in this state all during my period in public life for the pro-

motion of the health and welfare of this state had behind it, as the great driving force that made it possible, the efforts of organized labor.

It is a mistake to think that our friends John O'Hanlon, Peter Brady and Jim Holland come to Albany simply to secure the things that they think are of immediate and direct benefit only to the members of their organization. I am frank to say to you if that were their only purpose, they couldn't last. No institution in this country built primarily upon selfishness ever lived for any extended period of time. It must be able to show in that regard, some achievement in the interest of the public welfare, and nobody can gainsay the fact that the enactment of the present Labor Code, extending over a period of fifteen years, was anything other than a contribution to the health and welfare of the whole of the ten million people in the State.

What would we have done during the war without organization in Labor circles? Why, there would have been no control and they were just as necessary to the welfare and progress of that great war as the men at the front. What would the men at the front have done if the men behind didn't supply them with the wherewithal to force their way through the line? The Army was highly organized. So it was necessary for the great army of workers behind them to have the same effectual organization. The President of the United States could talk to one man all during the period of the war, as reflecting and representing the attitude of the great army of workers that were sustaining the men at the front.

It is a mistake to think that organized labor puts its efforts only into the things that promote the welfare of its unions or of its affiliated bodies. They stood behind legislation and gave the force of their organization to its passage that upon its face appeared to have no direct or immediate benefit to the organizations that they represented, but that did affect the great army of working people throughout the State, whether organized or unorganized, and unorganized labor, wherever it exists, has been the direct beneficiary of the efforts of organized labor as represented by these men.

Progress in our government is difficult to make. When I went to the Legislature twenty years ago, some of the statutes that were passed in the middle of that term never saw the light of day in public debate at that time. In fact, parts of the existing Labor Code were declared unconstitutional by the Court of Appeals and in violation of the Constitution of the State no less than twenty years ago — notably the prohibition of night work for women. But intelligent study and investigation and intelligent explanation of the influence against public health, against public welfare and against the best interests of the citizenship of the state caused even that great court in a period of ten years to reverse itself upon the identical bill that ten years before they found to be in conflict with the fundamental law of the state. Progress is hard to make, but by organized effort, by sane reasoning, by sound argument and by consistent procedure, we are making it, and the session of the Legislature that just passed was not without its contribution to progress.

I may say that one of the very effective steps in the march of progress was brought about as a result of agitation had at your Convention in Poughkeepsie a year ago on the rehabilitation of the Labor Department. You must bear in mind that the Labor Department purchases nothing. It pays no rent. It is housed in a building that is the property of the State of New York, and every dollar of appropriation made to it for its upkeep must of necessity go to salaries. And when you cut down the appropriation to the Labor Department by 25 per cent, you must of necessity reduce its efficiency by 25 per cent; you must curtail the inspectorial force, that must be relied upon to give force and effect and vigor and strength to the Labor Code, because without it the Code is only a book. What happened prior to 1913, when the State Labor Department was enlarged? We had a wonderful volume of law. I have read some of the messages of Governors in years gone by, and they expressed great satisfaction at the opportunity that was accorded them to put their names to some progressive labor measure. But that was all that ever happened. It just became a law and the state was without the means of making it effective.

What good would the Penal Code be in New York if we had no policemen? We might just as well tear it up. And you might just as well tear up the Labor Code unless the State spends sufficient money to make it effective.

The testimony of the Factory Investigating Commission indicates the absolute necessity for liberal appropriations for the enforcement of that Code. If it is going to mean what we think it means, if we are going to merit the credit the people in other states are giving us for an enlightened factory code, we must enforce it.

Another accomplishment was the strengthening of the Workmen's Compensation Act and the abolition of the ease with which direct settlement may be made between the injured workmen and women and the insurance company. I don't think it requires any explanation as to what is meant by direct settlement. We have discussed and debated and argued that, to my personal knowledge, for the ten years that we have had the Workmen's Compensation Act. Nothing helps more to defeat its purpose than to permit the insurance company to settle direct with the injured man, and the temptation is held out to the family to make such direct settlement if there is a delay in the payment of compensations. Nothing can stop it but the strong arm of the State, under the existing statute, by proper appropriations and by a generous increase in the number of referees. I am satisfied that so far as we have been able to do it in the six or seven months given to us, we have eliminated the necessity for direct settlement by making prompt payments to injured men after accidents.

We made some progress also by the re-establishment of the Bureau of Women in Industry, which Bureau had been reduced practically to a department of statistics, presided over by a field secretary and one or two stenographers. I regard the Bureau of Women in Industry as one of the most important Bureaus in the Labor Department.

Obviously, if men who work in factories cannot be protected with regard to their health by the state itself, what has the state to hope for in the next generation?

It was sufficiently appalling to the American people to find out how many men between the ages of 21 and 31 were unable to fight, and that was revealed to us only by the statistics and the records that grew out of the Great War. We had to go to war to find out how many of our men in the very prime of their youth were not physically fit to fight. How much of that might be directly attributed to the failure of the State, in part, to conserve the health and strength of the future mothers?

That is the function the Bureau of Women in Industry is organized to perform, and that is the function that it is performing, and it should be so administered and so compensated as to be able to perform it with 100 per cent of efficiency.

There were a number of minor bills—we call them “minor” because they deal with certain specific subjects and do not touch the broad aspect—that were enacted into law. Each and every one of them spells its fair share of progress.

There was a great deal that was not done that should have been done—things that I recommended, that in some instances passed one house, and that in other instances passed neither house. I refer first to the defeat of the bill to limit the use of injunctions. That should have become a law. No injunction should be issued in this State against the prerogatives and liberties of any citizen or group of citizens until they have had a chance to be heard.

The bill declaring the labor of a human being not to be a commodity also failed. That is so obvious, it is so patent upon its face, it is so clear, it is so far away from the realm of reasonable argument that I am unable to understand what possible harm can come to anybody by declaring it by statute in this State as being a part of the State's policy.

The bills for the creation of Minimum Wage Boards and for the Forty-Eight-Hour Week for Women both were defeated, and defeated after agreement, particularly as to the Forty-Eight-Hour Bill. It seems unfortunate that we are unable to get men to discuss these two propositions from the standpoint of the State. They seem to regard them as something that we are trying to do as a matter of favor. I am not in Albany to do favors for anybody by law. That is against the principles of democracy—to favor any group by law. It is not a favor. They don't seem to understand it in its broad sense. It is a public health measure. It is something to promote the welfare of the whole state. They are unable even to take lesson from those who have already, without statute, effected practically a minimum wage and a working hour day in their own factories. The most progressive of our manufacturers have already adopted them without law.

Of course, the restoration of the Direct Primary Nomination is entirely a political question. Nevertheless, it touches upon the rights of the enrolled individuals to control their own nominations. And

the nomination is a very important thing because it is very difficult under our political system to elect a man who hasn't been nominated. And if you let somebody else control the nominations, then all you have is your choice. It is a good deal like Civil Service: you can take one out of the first three.

I was also sorry to see the proposal for direct amendment to the Constitution defeated. There is no argument against that. Nothing can happen to the Constitution of this State until a majority of all the people voting at a given election approve of it. What difference does it make how the amendment is started? Is it necessary for groups of people to be obliged to go to vote year after year and talk to two hundred and one men about something that they want put into their own law? What is the result of such a system? It becomes the football of politics and it gets into a political reel. After a half century of talk about home rule for cities and localities throughout the state, here we are only getting a chance to vote on it this fall.

About ten or fifteen years ago there was a place down on Madison Street that I used to go into. One day the man who owned the place was putting in a new ice-box. When he took the old one out, there was a lot of old newspapers in behind it, and I picked up the daily news of 1888, and down at the bottom of the paper I saw a little article that read: "The Twelfth Assembly District Republican Club met last night in Grand Street and passed resolutions endorsing home rule."

Equally important as that, it is my belief that there should be proposed an amendment to the Federal Constitution to prevent that document from being further amended without the vote of the people.

A strange outcome of the present situation is that our own State Constitution can only be amended by ourselves, but the Federal Constitution can come along and practically nullify the State Constitution, and, as individuals, we have nothing to say about it because we will only be told afterwards by the Supreme Court that Congress is supreme, and you can go out to Kansas and try to convert the fellow out there before you can do what you want to do on Broadway.

I notice the report deals with three bills I vetoed which had the approval of organized labor. Jim Holland has told you that we roar at each other and that we give and take. If we didn't do that, we would have no standing in the community. If we were in entire accord all the time, we would defeat some of our usefulness, because out of the give and take of argument comes the thing that we can all sustain.

The first one was the bill for the licensing of barbers. I don't know any reason why barbers should be licensed, any more than you would license anybody else. If it is predicated on the theory of the public health, then the State ought to perform the function without charging the man for it, and it ought to perform the function

through its organized Health Department and not create another agency to administer what is palpably upon its face a public health law. It is the creation of these additional agencies from time to time that sends up the cost of the government of this State; the sending up of the cost of the government of this State is reflected in the taxes, and in the taxes, in part, are reflected the increase in rents and the cost of doing business in the State of New York, all of which in the last analysis works against the State itself and against her people.

So if we are going to do anything in this State in the future, we must do it, if we possibly can, with an organized agency, something that we already have at our command. Naturally, you wouldn't appoint a new police department every time you amended the Penal Code. You would put the duty of enforcing the new section upon the existing force that was handling the rest of it.

The other bill was the bill prohibiting bootblacking after one P. M. on Sundays. I am possibly the strongest advocate in the state of the one day of rest in seven. I was Speaker of the Assembly that passed that bill, and while it did not come in as a report of the Factory Investigating Commission, I tagged it onto all their bills and it went through with the understanding that the State Factory Investigating Commission endorsed it. We met afterwards and my action was sustained by the Commission. The trouble with that bill was that it only applied to about five per cent of the bootblacks; the other 95 were excluded from it. If you define a principle, you can't start compromising with it. This bill excepted bootblacks in railroad stations, on steamboats and hotels — and that includes about 90 per cent of them. That was the main reason for my vetoing that bill, plus the personal knowledge I have that a great many men black on Sundays only as a means of securing additional support for their families. If this bill were put into effect, we would have to tell those men that they can't work, but the fellow across the way, who is financially strong enough to be able to rent a bootblack stand in the Grand Central Station at a rental of \$10,000 a year, would continue to black on Sundays.

I refused to sign the bill amending the Civil Service Law because it applied only to the city of Buffalo. Instead of being a special act amending the charter of the city of Buffalo, it ought to be an amendment to the Civil Service Law, giving the same guaranty to the employees of the State and all the cities alike — if it is a good thing.

So much for that. What is in front of us, besides the matters which I spoke about that did not pass and that I believe should have passed?

The Federation of Labor is already strongly on record as being in favor of the \$50,000,000 bond issue for our state hospitals and State institutions. It would require more time than you would want me to devote to it to go into this subject at length, but I can sum it up in a few words.

In 1894, the State of New York took upon itself, from the various counties that make up the State, the sacred obligation of caring for

the unfortunate insane of the State. On the first of January of this year there were 40,000 people in the 16 institutions for the insane. That number is growing at the rate of 1,000 a year. On the first of January of this year, there was an overcrowding in these institutions of 25 per cent. That means the patients are sleeping in the halls, in the storerooms and in the quarters that belong to the employees; and the State of New York is spending \$35,000 a month for what the Hospital Commission refers to as "commutation," and that is the hiring of rooms and board for the employees in houses adjoining the State institutions because they have no room to house them in the institutions themselves. And in some of the institutions where it is impossible to find more than lodging on the outside, state employees are sleeping in quarters that makes it impossible for the State to get the type of men and women it ought to have to care for these unfortunate people.

I hold that that is a very sacred obligation. I hold that the people of this State did not intend to simply house these insane people in buildings and let them lie there till they die. I hold that the State intended to give them comfort, to cure them. If it is within the province of God Almighty to cure them, the State ought to do every thing they possibly can do to cure them. It can't do it under the present conditions and it is not being done.

We have been relying on the Legislature from year to year to make the necessary appropriations. All of a sudden there comes a great wave of economy. Somebody sees the political expediency of cutting down the appropriation bills, and who suffers? Where are we hit by that kind of a policy? Invariably, it is the construction work in the institutions that suffers as a result of that kind of policy.

During my first term, in 1919 and 1920, there was appropriated \$8,968,000 for hospitals. In the administration that followed me, that \$8,900,000 was cut down to \$4,300,000, an apparent saving of four or five million dollars. That was no saving. That had to be taken up again this year and that in part accounts for the increased cost of the government — not that we took on a new activity, but we pursued the one we were working on with greater vigor and greater energy.

Some of the institutions now being used for the care of the insane were built as far back as 1845. The 25 people that were burned to death in 15 minutes on Ward's Island last February were in a building that was used as an immigrants' home as far back as 1853. In Rochester, we are using the old Monroe County Lunatic Asylum, built in 1845. In the city of Syracuse, we have 400 children in a home for mental defectives that was built in 1856; it is nothing but wood and brick. If a fire ever occurs there, the whole community will be shocked beyond the power of expression or even understanding.

This proposed bond issue means that we are going to sell long-term bonds of the State, to the extent of \$50,000,000, and that we will release annually for the next four years twelve and a half million dollars, so that the old buildings can be raised and new and modern

structures of steel and concrete erected to take the place of this broken-down, ancient, disorganized and disrupted character of construction that we are now struggling along with.

That matter should have the full and complete endorsement of organized labor throughout the State.

I also believe the Federation of Labor might well endorse the Executive Budget Plan, because I want to say here now that you cannot have any control over the mounting cost of the government of this State until you get away from the old-fashioned method that obtained 50 years ago, when the State was very small and required very little money with which to run itself. But when that budget mounts to the figure of \$165,000,000 a year, there can never be any control of it unless it is put right directly up to the Governor himself. Let him take the responsibility for it. At the present time he is practically without responsibility, although everybody thinks he has it.

This cost of government, mind you, is reflected in our rents. It is reflected in our taxes, if we happen to own our own little house. In 1919, as an extraordinary measure to take the place of the money that was lost to the state from revenue for liquor tax certificates, there was enacted the personal income tax, and you cannot take the hands of the government out of your pocket until you organize that government in such a way that somebody will be responsible.

There is one other subject to which I think the Federation of Labor might well give attention and that is the agricultural situation. I could talk to you for a long while on the importance of progress in agriculture. I could talk for a long while of our absolute dependence upon the farmer for everything that we eat and wear. Unless agriculture prospers, you can't look for any too much prosperity in industrial centers.

What can be done by law no man seems to be able to say. They have been given their opportunity to present their case, so far as they believe that anything by statute can be done to relieve them. But something can be done in this state that I know of that is definite and concrete, and that is that the vast sum of money now being expended for the promotion of agriculture in this state should be spent under the direction of commissioners appointed by the Governor, and not elected by the Legislature. The Legislature is not an administrative body. The fundamental precepts of our Constitution divides it entirely from any administrative function that is performed by the state. The Legislature is a law-making body. It comes into being for the purpose of reflecting the opinions of the people in the various communities of the state as to the law, and not as to its administration.

As a result of working away from the fundamental concept of the Constitution, we have a situation to-day whereby agriculture in our state is presided over by a regency that nobody knows anything about.

There is one other thing I think it might be well to adopt a resolution on and that is on the development of hydro-electric energy by the

state. We are in the ridiculous position in this state of hauling and carting coal from Pennsylvania in here to make light, heat and power. And throughout this state, on our water streams and on our inland rivers, we are allowing the equivalent of millions of tons of coal to run to waste every minute. Every state in the Union has some God-given resource. Very nearly every one of them have developed their resources except the state of New York. And why? Because there seems to be no termination to that quarrel between groups as to whether this power is to be developed by the people themselves or whether it is to be given to a private corporation for development. We have had our experience with the private corporation. Development by them does not reduce the cost of electricity to the people. They develop it and sell it to a transmission company and by the time the people themselves get it, you might just as well generate it from coal—there is no difference in the price.

There was presented to the last Legislature, pursuant to a message I sent in, a broad, detailed, comprehensive plan for the development of at least two of our basic powers, the two great powers that form the basis of all water power development in this state; that is the remainder of the power available at Niagara Falls and on the St. Lawrence River at the place called Cornwall Isle. There came a clash of interests. The bill passed the Senate, only to go down to defeat in the Assembly because the private water power interests were more aggressive and had a better understanding of what it was. A small few were able to defeat the wishes of the many because the many were unorganized and the few were highly organized and ready to do business, and have been doing business at the old stand for 25 years.

That sums it all up, Mr. Chairman.

I presume you are going to be elected again as Chairman or President. I haven't any doubt about it and I was going to suggest that probably we will put you in the Civil Service so that you will have a job and retire with a pension at 70, although that is a good way off. However, it ought to be done because they say after a long incumbency there grows out of an efficiency that should be recognized by a substantial tenure of office; that can be effected only by competitive Civil Service.

I congratulate you and my good friend, Peter, on the progress of the bank. By the way, I have \$100 in that bank. I have been watching every day for the interest check but I understand it is credit to my account. When he met me a short time ago he said, "When are you going to put a little more in?" I said, "Don't speak about it; I was thinking of taking the little I have in out. I am short."

I am glad to see the bank is progressing. It was a happy moment for me to be able to stand on the platform down there on Eighth Avenue and participate in the ceremonies that marked its opening. We were surrounded on all sides by the large corporation banks, but our little bank, to my way of thinking, looked just as sound and just as strong and spoke just as eloquently of great security as did the

big marble institution across the way, because I took it on the theory that anybody would be afraid to burglarize that bank, knowing who was behind it.

I congratulate the Federation of Labor and your legislative representative, Mr. O'Hanlon, and all the men who came to Albany this winter. They can testify that the door of the executive mansion was open to them, and I am an absolute witness to the honesty of purpose and the hard work and labor that they put in all winter in an attempt to progress the measures that the Federation was interested in. I congratulate them all and I congratulate the Chairman, the Federation itself and the Convention. I hope that the man who passed the wet resolution will withdraw it in order that you may have some of the sunshine of Lake Champlain and the Northern country. I hope you enjoy your stay here and get back to your respective cities safely and soundly.

At Meeting of the Democratic State Committee, Town Hall, New York City, September 28, 1923

It is just a year since the Democratic Party in convention assembled in the city of Syracuse nominated its state ticket and made promise to the people of this State that if elected to office they would put into effect at the earliest possible moment measures intended to promote the welfare of all the people of the State. I think it is but fair to say that the results of the last election indicated that not only were the Democratic candidates successful but the stamp of popular public approval was placed on the platform upon which they were nominated. If the theory of party government is to survive, the party declaration of principle must be regarded in the light of a sacred promise to meet issues affecting the people in accordance with the promises set forth in the platform. Therefore, in spite of a hostile Assembly dedicated to the principle that party expediency comes ahead of the public welfare, it is a source of satisfaction to me, as your Governor, to recount our accomplishments as a party and as an administration. The record constitutes in itself an indictment of the Republican Party for a conspiracy to obstruct progress in the government of the State. The Democratic victory of 1922 was not indecisive. It was clear-cut and the debate throughout the State upon all phases of the platform was conducted by two men who had themselves each served a term as Governor of the State.

Immediately after my entry into office, I presented to the Legislature a program embodying the pledges of the platform and bills to meet these were promptly introduced into both houses by Democratic initiative. It is a source of pride to be able to point out to you to-night a substantial degree of progress toward the realization of this program. I shall review this program only just so far as to indicate what has been accomplished, what still remains to be done, and how we may do it.

In the various fields of our endeavor we have always held dear the rights of local governments and it is gratifying to tell you that in less than a year there was passed in both houses of the Legislature, and will be submitted to the electorate this fall, an amendment to the Constitution providing Home Rule for municipalities throughout the State. In simple language that means a broader grant of power to the local sovereignty for the management of affairs that are in their nature purely local and it will give to the people of the different cities of the State through their own representatives a fuller measure of control over the business affairs of our great cities.

In the field of personal liberty we have also recorded victories. It is with a special sense of satisfaction that we may point to the definite promises made in the Democratic platform to remove from the statute books of the State the un-American and undemocratic so-called Lusk Laws which subjected our private schools to supervision and exacted from the great army of our public school teachers a test of their loyalty to our country. Both of these measures had their birth in the hysteria of war and should never have been enacted. Every lover of democratic government opposed them in every part of the State, and legislation introduced and carried through by Democrats has wiped them from the statute books.

It is a further source of satisfaction that in spite of the Republican attempt as evidenced by the record to carry water on both shoulders, we were able to make known to the Congress of the United States the attitude of this State toward the dishonest interpretation of the Eighteenth Amendment as set forth in the so-called Volstead Act.

We created a Commission to investigate defects in the law and its administration, to the end that justice may be more speedy, and the laws of the State brought into harmony with modern business and social conditions.

Equally striking and gratifying have been our successes in the field of human welfare, labor, public health and public safety. These have always been the special care of the Democratic party. We found the Labor Department so crippled as to be almost unable to function, because of inadequate appropriations made in the guise of economy but really intended to render it helpless. We take satisfaction from the fact that we have, in accordance with our promise, restored it to a proper state of efficiency and re-established its Bureau of Women in Industry, through which it is even now making important contributions to the well-being of our women wage-earners.

We have advanced the cause of public health. Both houses passed the act permitting the State of New York to avail itself of the federal funds for maternity and infant welfare. We are entitled to full credit for the passage of the State Aid Bill for public health work in rural counties. This particular amendment to the law was recommended by the Reconstruction Commission as far back as 1920. Lost sight of since then through political conflict its justice is at last established. It has been referred to by a distinguished medical authority as the "greatest step forward in public health in the last

decade." Related to it is the law to extend the system of health department laboratories also sponsored by our party and successfully enacted.

We met intelligently the unsafe conditions caused by over-crowding and fire hazards which threatened our State Hospitals for the insane. These conditions were referred to in our platform and our promise to remedy them was widely discussed during the campaign. We have made immediately available large appropriations to decrease the fire hazards in our State institutions, but more than that we have proposed and passed a proposal to bond the State for \$50,000,000 for the construction not only of additional hospitals to care for the insane properly but to make needed changes in construction for various other institutions which house the wards of the State. This will be put before the people at the next election.

In order that the standard of efficiency may be maintained among the employees of the institutions that care for the insane, appropriations were made to provide for a living wage for them. A recent report from the State Hospital Commission showing that we have not only secured the necessary employees but have been able to raise the standard because of the wages now paid, is full vindication of our action; and while it may increase the cost, it nevertheless puts the State in a position of being able to do all it can under adverse circumstances for the care of the unfortunate afflicted who are our charges.

We have also initiated and carried through the establishment by the State of a Military Memorial Hospital to bring under one roof for adequate care, the soldiers mentally ill as a consequence of the World War. They are at present spread out in the various institutions of the State from Montauk Point to Niagara Falls, and as a consequence can not receive the special attention that it is possible to give them when brought under one roof.

In accordance with our promise we are to submit to the people the question of a bonus to the soldiers who left this State to take part in the World War.

We succeeded in strengthening the Child Welfare Laws so that many children homeless and dependent upon the State for their support are brought within the beneficent provisions of the Child Welfare Act.

A State Board of Housing and Regional Planning has been established so that there may be intelligent study on the part of the State given not only to the immediate questions affecting us to-day, but to a plan that will mean much for the future of our cities. We extended the law permitting tax exemption and also extended the rent emergency laws to apartments built since 1920 so that the people needing the protection of these laws would be covered.

We have established a State system of parks based not alone upon the needs of to-day but looking to the generations to come and second in its scope and character to nothing that has ever been accomplished by any commonwealth for the creation of breathing spaces and recreation grounds for the people who spend most of their days in

the crowded city tenements. We have provided for what is practically a gift of unappropriated State lands to cities where they will make park sites of them and arranged to make them productive otherwise as a relief to the taxpayer.

We have established a Conservation Fund and the receipts of the State from its activities along this particular line may be devoted to a further promotion of conservation in preservation of our parks and forest preserves.

We made generous appropriation for the elimination of grade crossings to cut down the toll of human life annually exacted from the operation of steam railroads at grade.

By directing the searchlight of public opinion against the forces that seek control of our water power, we forced through both houses at Albany an appropriation to permit the Attorney-General to defend the State's right to her own water power resources.

We promised the State to go forward on our program for orderly, well constructed State administration and I am proud to tell you that after a long and bitter debate giving rise to the necessity of a trip through the State by myself when I could least afford the time in which to do it, we succeeded in forcing a hostile Assembly to adopt an amendment to the Constitution that will consolidate the one hundred and eighty-seven agencies of the State government into twenty departments and will establish the short ballot. By senseless and specious argument, however, they wriggled away from the constitutional amendments to create an executive budget system and extend the term of the Governor although these are essential to the success of the reorganization plan.

Pending the final adoption by the people of the amendment to the Constitution consolidating the scattered agencies of government, there were proposed by myself over thirty bills whose effect would be the statutory consolidation of close to one hundred individual activities of the government. Without going into these in detail, I can make the statement and back it up that the Assembly defeated every proposal to consolidate departments where Republican patronage was imperiled.

At the close of the legislative session, I put forth for circulation throughout the State a clear, plain, definite and concise statement of the State's fiscal affairs. I worded it in such manner as to make it mean a challenge to those who would dispute it or who would dispute the wisdom of the State's action in thus appropriating its money. Up to and including this hour and minute, the challenge has never been met. I await any such challenge with a great deal of confidence. I can justify our appropriations to their every dollar.

We met in businesslike fashion the demands made upon the State from her funds because of a previous administration dedicated to the theory of false economy that amounted to nothing more than the postponement of the payment of the State's obligations. Among these was an item of several millions of dollars owing to the farmers of the State for indemnities for cattle slaughtered at the State's

behest ; certainly a due bill, the postponement of whose payment was a deliberate deception and a grave injustice.

Over against this record of achievement, we must consider what still remains undone and endeavor to point out how we may redeem our pledges in full. The Republican Legislature showed in every act how little it trusts or believes in true democracy.

During the campaign of 1922, no subject received more attention in the mind and thought of the electorate than the question of their control over their own public utilities. We definitely promised to restore to localities the rights that they had always exercised over their own agreements between their municipalities and public utility corporations. We deplored the legislation of 1921 that stripped localities of the power over these agreements and vested it in the State. From one end of the State to the other, we advocated the policy that an agreement between a locality and a public service corporation should be lived up to by both parties to the agreement. To the end that that promise might be fulfilled, in accordance with the will of the people clearly expressed at the polls, legislation passed the Senate only to meet with defeat in the Republican Assembly.

We definitely promised to the people of the City of New York where the transit situation is very acute, legislation giving to the City the right to own, construct, operate and regulate their own transit facilities. Legislation making this promise effective was likewise defeated by a Republican Assembly, and when put to the test the Republican majority in the Assembly cast their lot with the public service corporations as against the mass of people affected by the present conditions. I may add that in all of the conferences held between myself, the leaders of the Democratic Senate and the leaders of the Republican Assembly, the Republican leaders seemed to be without constructive thought or notion in their own right and sought advice from some outside source. They had no concrete, genuine or definite objection to our program. They simply took the role of obstructionists, a role that was apparently convenient to their advisers, whoever they may be.

New York City was denied the right to name any part of the commissioners to the Port Authority, although it was freely conceded that ninety per cent of the operations, so far as our State is concerned, must of necessity affect the Greater City.

The Democratic Senate carried out its promise to restore control of the primary elections to the enrolled members of the party. It went down to defeat in the Republican Assembly, as also did the proposal for bi-partisan boards of election, something contemplated by our constitution and forming the very basis for honest elections. Amendments to the Corrupt Practice Act, intended to make it worth while as a statute to insure honesty in elections, passed the Senate only to meet defeat in the Republican Assembly.

The Democratic proposal that the people themselves be permitted to initiate constitutional amendments received the approval of the Democratic Senate only to be defeated in the Republican Assembly.

A bill to abolish the Motion Picture Censorship Commission—useless, costly, and entirely out of step and thought with the spirit of our institutions—passed the Senate and was defeated in the Assembly without rhyme or reason, unless it be the protection of Republican patronage.

Recent history suggests to the people the necessity for directly passing upon amendments to the Federal Constitution. They do so with regard to amendments to our own State Constitution, but so far as the Federal Constitution is concerned, the power is delegated. Recent history shows us how far it is possible for us to wander from the true fundamentals of democratic government, by leaving in the hands of anybody except the people themselves the right to pass upon amendments to their Federal Constitution. A proposal to amend the Federal Constitution so that it could not hereafter be amended without vote of the people passed the Senate only to be defeated in the Republican Assembly—another evidence of their distrust of the people.

For years and years we have been talking about the development of our great natural resources. Volumes have been written on the subject. Men have discussed it in and out of the Legislature for a generation. The bone of contention has always been the question whether or not these resources should be developed by the State in the interest of all the people or whether the State should permit private development for private profit. The Democratic Senate adhered to the well defined principle of State development under State ownership and State control. The Republican majority in the Assembly, firm for private profit and private development, defeated the proposal only to leave the State where she was twenty years ago, helpless herself with her great water power resources running to waste and inviting attack upon all sides by those who are trying to put over private operation that means private profit only.

We very definitely promised amendments to the Workmen's Compensation Law to prevent direct settlements between insurance companies and injured workers, both men and women. We definitely promised a reduction of the non-compensated waiting period in industrial accidents. We promised in every way to strengthen the Workmen's Compensation Law. Bills carrying these promises into effect passed the Senate and went down to defeat in the Assembly. The Senate was actuated by a desire to promote the welfare of the worker and the Republican Assembly listened to a lobby.

The Democratic Senate did what it could to remove an industrial injustice by passing a law establishing boards to fix living wages for women and minors in industry. A Republican Assembly defeated the proposal, as they did the establishment of a forty-eight-hour-work week for women in factories passed by the Democratic Senate.

The Republican majority in the Assembly, owing allegiance in the first instance to the rural population of the State, defeated a measure backed by the Department of Education of the State for the betterment of rural education although the Senate, referred to as men coming from the large cities of the State, passed it.

The Democratic Senate stood ready to extend State aid to the counties for child welfare work. It was defeated by a Republican Assembly.

No question of State government occupies a more important position in the minds of the people to-day than the proper regulation of automobile traffic. The annual toll in life and limb is appalling, to say nothing at all of property damage. A well-thought-out and carefully devised program for the regulation of automobile traffic was comprehended in a measure passed by the Democratic Senate, only to go down to defeat in the Assembly.

We can proclaim achievement and sincerity and earnestness in advocating and doing all in our power to push to success the pledges we made to the people by party and by candidate. We offered our legislation promptly and it was as promptly passed by our faithful Senate majority. The lesson is plain.

Running true to form and living up to a well-earned reputation the Republican majority in the Assembly devoted all of its time and all of its energy to the protection of privileges of special interests. They have no right on any public platform any place in this State to claim any credit for what they did do, as it is generally conceded by the progressive forces of both of the great parties that what was accomplished in the Assembly was wrung from an unwilling majority under the strong force and searchlight of public opinion.

The Democratic Party, able to defend to the last degree its record in all these matters, reaffirms the declaration of principles set forth in the party platform of 1922 and challenges the Republican Party as represented by the majority in the Assembly to be frank and open with the people of the State and give the real reason for the defeat of measures that could do nothing but spell progress.

Our Republican friends have attempted to lull the people into the belief that no state-wide issue occurs in what they have been pleased to call an "off year." Ours is a government of laws and not of men. Substantial progress indicated in the Democratic platform requires amendment to the law. There is no "off year." The complexion of the next Assembly is important if these remedial statutes are to be enacted. If we are content with a government of negation, we can stand where we are. If, on the other hand, we want progress, we must elect an Assembly in sympathy with this program. To do otherwise would be to give approval to the obstructive tactics that prevailed in the Republican Assembly of 1923. It is in effect to say that those responsible for such tactics were right and the proponents of progressive legislation were wrong. It is in effect to say that another year is to be lost to the people of this State. It is in effect to put the stamp of disapproval upon the measures advocated in my first message and subsequent messages to the Legislature. It means a clean bill of health to the obstructionists controlling a minority part of the State administration who sent down to defeat a progressive platform and offered nothing in its place.

Address of Governor Smith at Troy, October 10, 1923

There is just one truthful thing in the declaration of principles of the Republican State Committee, and I wouldn't miss it for the world, because I want to give them full credit.

They say that the Republican party favors the development of the water power of the State by private owners. That's what they do. That is true. They come right out and say it. That is the one thing in the whole declaration for which they are entitled to the slightest grain of credit. They are at least frank and honest about it. They believe in the development of the water power of the State by private owners; but to whom does the water power belong? It belongs to the people of the State.

The Democratic party believes in the development of the water power by the State itself, under State ownership and State control, to the end that all the inhabitants of the State may get some of the benefits from it, and not the private owners. The private owners have been getting the use of the water powers of this State for thirty years. They gobbled the water power at Niagara Falls until the Federal Government intervened and stopped them, lest they might destroy the scenic beauty of the Falls themselves. Then they marched over to the St. Lawrence and grabbed the Long Sault, only to have it wrested away from them in 1913 by a Democratic Legislature, which passed an act repealing their charter, which act was upheld by the Court of Appeals.

Certainly they believe in private development. They have stood stubbornly in the way of public development for the last quarter of a century. They are outspoken about it. We will give them credit for that. A comprehensive plan designed to develop the two great basic powers of the State and making a foundation for all future water power development, after it passed the Senate, was put to death in the Assembly; and they frankly come out and say that they want it developed by private owners. That means for private profit and for private gain. They are at least honest about it.

I wish to say something about a pending amendment to the Constitution amending section 7 of Article 7. I want to speak about it at this time when I am speaking of water power, because this proposed amendment is part of a scheme to allow private interests in this State to go into the Adirondack Preserve.

Under the Constitution as it stands today 3 per cent of the Adirondack Preserve can be flooded for three purposes only—(1) for municipal water supply; (2) for the canals of the State; (3) for the regulation of the flow of streams and in the interest of public health.

Now this proposed amendment to the Constitution would permit the flooding of the Adirondack Preserve for power development, the power proposed being in the hands of private owners. Not only does it permit that, but it permits the erection of transmission lines through the Adirondack Preserve.

That great big natural park is the property of the people of this State and if water power is going to be developed from it, it should be developed for the people themselves, and not for the private owners spoken of in the water power plank of the Republican declaration of principle.

The language of this amendment is misleading. I don't know who prepared it and I care less; but it is misleading. It intimates that this flooding is to be done in the interest of the public health. That is not so. This flooding is for the benefit of private power owners adjoining the Adirondack Preserve; and I strongly recommend to everybody to vote against the amendment.

There is one other matter that I wish to speak about and that is the hospitals of the States. There will be submitted this fall a proposal to bond the State for fifty million dollars. That sounds very large; but in a State as big as New York that is not so very much money.

In 1894 we amended the Constitution so that the State might take over from the counties the care of the insane. I can think of no more sacred duty resting on the State today than the proper care of the unfortunate sick and afflicted whom we promised to care for and we are not doing it. I say nothing disparaging of the State Hospital Commission. Dr. Haviland and his associates members are intelligently tackling this problem. They are doing the very best they can,—as much as any human in the world could be expected to do under a similar set of circumstances. Nevertheless, we are not doing our duty. To begin with, the structures themselves are too old. Some of our hospitals were built 70 years ago. We are spending more money every year for their repair and their maintenance than good business principles would dictate to us that we should spend. If this thing were put wholly and absolutely on the basis of what constitutes good business, you would not continue some of these old structures any longer, because their upkeep and repair are entirely too costly.

I have here a picture or a set of pictures taken at King's Park State Hospital on Long Island, and the set of pictures in this book is typical of every institution devoted to the care of the insane in the State with the exception of about two. The State is very seriously hampered in the effort to care for these people, by overcrowding. They are sleeping on the floor, and in the corridors of the hospitals, and when the picture was shown to me of the mattresses lying on the floor in a long narrow hallway I said to Dr. Haviland, "Why have them on the floor? Why not on the beds?" He said, "In case of fire the people in the rooms have to get out, and they are sleeping on the floor so that the inmates of the adjoining room will be able to get into the adjoining corridor in case of fire and get to the fire escape."

Here is one typical case at King's Park,—a photograph showing the overcrowding in one of the dormitories of Ward No. 49, allowing 52 square feet of floor space for each patient—10 patients.

The actual number of patients sleeping in the ward on the 8th of September of this year was 22,—an overcrowding of 100 per cent. This particular ward is furnishing the largest number of male admissions to the tuberculosis unit.

We have an overcrowding today in State hospitals throughout the whole State of very nearly 35 per cent. thirty-seven thousand people are in these institutions alone and 35 per cent of them are not properly cared for.

Now it is to be hoped in the interest of the unfortunate people themselves and in the interest of the State and for the preservation of her honor in this matter that the bond issue receive your approval.

At the Second Annual Dinner of "Better Times," New York's Welfare Magazine, Waldorf-Astoria, October 31, 1923

Mr. Toastmaster, I don't know whether to say —Members of the Better Times Association — I don't know whether we are organized into an association — or whether to say Friends — but we are all interested in better times.

I take it that we have gathered tonight to discuss the topic of better times — not for ourselves, because we are doing well,— not for those who have plenty,— but to speak about how we can do something for those less fortunate. I am going to divide my remarks in two parts: first, I am going to deal with better times for the State's dependents because, after all, that is an obligation that rests upon every one of us.

On Tuesday next there will be submitted to the voters at the polls a proposition to bond the State for fifty million dollars. The sole purpose of that proposition is to ensure better times for those who are our wards, those whom we have sacredly promised to care for. Among the various amendments adopted in 1894 when we amended our Constitution, was one providing for the care by the State of the insane population. Prior to that, the care of the insane was entirely a county charge, and it was because the people of the State were dissatisfied with the way in which a great many counties were carrying on that charge that they took it upon themselves to make it a State obligation.

I have personally, as Governor of the State not only in my present term but during 1919 and 1920, made a careful study of how well we are carrying out that obligation as a State — and I am entirely dissatisfied with the way in which we are doing it. I say it without disparagement in the very slightest degree of the agencies selected by the State for the performance of that duty. I hold, and I have held, that our State Hospital Commission is doing everything that a State commission could possibly do. As a State we are responsible, and where a weakness has become apparent in that great hospital organization, it is our fault, and I am here tonight for the purpose of attempting to demonstrate to you that

we are entirely to blame—that we have the remedy at hand—and that we should adopt it.

The care of the insane is a much greater problem than any of our citizens imagine. To begin with, the population in the insane asylums of the State is much larger than our citizens generally understand. On the first of August of this year we had 37,078 people in the asylums or hospitals for the insane. Because of reasons that I will afterwards describe to you, our facilities for caring for them are inadequate to the point where on that same date, the overcrowding, also to be explained afterwards, amounts to 23.9 per cent. In other words, nearly a fourth of the people in the institutions for the care of the insane in this State today are not being cared for as the State should care for them—because overcrowding not only deprives the State of its opportunity to care for them in a proper way, but it promotes further disease.

In the records that have been submitted to me it has been certified by the doctors in charge of the hospitals that overcrowding is primarily responsible for the number of patients who after a short period have to be committed to the tuberculosis wards. That is particularly noticeable in some of the oldtime hospitals built a great many years ago, when the architects' ideas of light and ventilation were not on the same plane as they are today.

In order to illustrate that, the State Architect has provided a number of pictures for the screen which show the conditions better than anything I can say on the point of overcrowding. I believe at this time we should show you the pictures.

No. 1 is the corridor used as a day-room for women at Kings Park Hospital. You can see the amount of space given to the patients in their time of rest.

No. 2 shows the male infirmary at Gowanda Hospital. It is certified by the hospital authorities that the overcrowding in this particular ward is 36 per cent.

No. 3 is the male infirmary on the third floor of the Rochester State Hospital which has one fire escape only. In case of fire, each patient must be carried out by two attendants.

No. 4 shows the corridor of St. Lawrence State Hospital. You will note the beds upon the floor. When this picture was shown to me by the President of the State Hospital Commission, I asked why the patients were obliged to sleep on the floor, and his answer was that all of these beds are laid outside of rooms, and they are on the floor so that the other patients in the rooms would be able to jump over them in case of fire.

No. 5 shows a day-room in the St. Lawrence Hospital which is used as a dormitory, and the mattresses are spread upon the floor upon the theory that it is easier to take them in and out than a bed would be. They have to be removed in the daytime to make room for the patients who must have daytime quarters.

No. 6 shows a room in the Buffalo State Hospital using eleven beds in a room intended for four. In this room there is just one window for light, air and ventilation.

No. 7 shows another corridor at St. Lawrence State Hospital used for sleeping purposes. The beds upon the floor are there for the same reason given for the former picture.

No. 8 shows a corridor used as a dormitory and dayroom at Buffalo State Hospital.

No. 9 shows a corridor used in the Buffalo State Hospital as a dormitory.

No. 10 shows conditions at the Binghamton State Hospital where the overcrowding is 44 per cent.

No. 11 shows the Syracuse School for Feeble-minded Children—a classroom used as a dormitory.

Just let me say this: that these eleven pictures are a sample of the conditions throughout all of the State hospitals in which conditions are no different from what you see in the eleven pictures thrown upon the screen. In fact, it may well be said that at Kings Park Hospital on Long Island they are worse. A picture of a certain ward in Kings Park Hospital was shown to me where the chairs were at the end of each bed. Able-bodied people who worked around the grounds or who worked around the institution had to sit on those chairs until it was time to go to bed because there was no other place to put them. During the war we tolerated such conditions because of shortage of help, nurses, and attendants.

I was seated in a room in the Biltmore Hotel one day when a nurse from the United States Government service came to see me about conditions in the Brooklyn State Hospital. Her story seemed to me quite unlikely and I sent my counsel over to interview the doctor in charge of that particular hospital. He verified everything she said. She told me that a personal investigation disclosed to her that a number of women patients had vermin in their heads, that they had not been out of bed for days and weeks at a time because of a lack of attendants to take care of them.

At one hospital patients were kept indoors during the summer months for three weeks at a time simply because there was nobody to take them out into the open air.

I submit for the consideration of anybody interested in better times, that the State of New York is not performing its duty to these unfortunate wards. If it is a proposition of simply locking them in some house until they died, that is all right. That's what we are doing. But we are not caring for them. We are not providing the facilities whereby they can be properly cared for.

Let us consider for a minute the fire hazard. In a short time I am going to give you the exact age of all these buildings which are being used for hospitals. You can imagine the type of building that was built years before I was born! Not that I am so old—but it is a long while ago anyway speaking about the life of a building. What happened on Ward's Island in February when 23 people were burned to death in five minutes? The particular building in which that fire occurred was used as a home for immigrants as far back as 1865, and at that time the city had not piped water from the Croton Reservoir to Ward's Island, and the water supply of that home came

entirely from a driven well and was pumped into a tank on the top floor. In 1880 Croton water was introduced to Ward's Island and a ceiling was built and the tank was concealed. And nobody connected with the hospital or with the State service knew anything about the presence of that tank. It was simply a cast iron tank 9 feet high which was concealed in the rafters of the ceiling on the top floor. When the woodwork burned away in the February fire, the tank fell down—and it happened to fall across the corridor where it cut off the means of escape of 25 people! That fire was on the top floor. Nobody connected with the management of the hospital as of today knew that tank was up there.

I had a talk with the State Architect after that fire, and I hate to tell you what might have happened if the fire had started on the first floor. There would be no end to it. The institution would be wiped out and instead of 25 people accidentally cornered, probably the whole population of the building would be wiped out in half an hour.

At the beginning of this year I was fortunate in securing for the State the services of a very intelligent man for State architect. He is the man who designed the Educational Building in Albany. Due to the progress of its construction I think it ranks from the standpoint of architectural design and the speed with which it was built, with probably any public building in the United States. And this is what he says about the fire hazard: "State Architect Sullivan W. Jones is authority for the statement that 90 per cent of the buildings in the State institutions can be classed as fire hazards, and this danger in many of them is greatly increased by the fact that the buildings are terribly overcrowded. When one considers," says Mr. Jones, "the helpless condition of many of the inmates, one is convinced that a kind Providence who watches over them is alone responsible for the absence of a series of catastrophes and a heavy sacrifice of life." There can be no doubt about that. That is based upon a scientific survey of the State's institutions.

Within a week five buildings of the Binghamton State Hospital burned to the ground in less than fifteen minutes. Fortunately, they were the outlying buildings used for appliances and supplies rather than those which housed the inmates of the institution.

Leaving out of the question entirely the care of the present population and proper provision for the overcrowding, we must take into consideration the annual growth. The population of our hospitals for the insane grows approximately at the rate of a thousand a year. Let us consider the cost of taking care of a thousand new patients. A thousand beds added to an existing institution costs \$1,500,000. And bear in mind that the addition only takes care of a wing of the hospital, we have already paid for a sewage disposal plant. We have already paid for a power plant. We have already paid for kitchen services, and we have already taken care of a proper water supply. So that the addition of only a wing to take care of a thousand people costs \$1,500,000.

There comes a time when new wings and new additions to the hospitals are not practicable because it has been certified by our eminent students of the subject, that after a hospital reaches 3,000 population it becomes inefficient. That is as many people as can be cared for under a single organization.

I think that during our campaign for the passage of the bond issue we have probably stressed too much the hospital side of it. Bear in mind, that under the provisions of this proposal there can be constructed buildings for all of the wards of the State except those in penal institutions. I think it is a happy thing for me to say tonight something that we ought to thank God himself for—that we have all the room we need in the penal institutions.

Now, what is the real story? Let us take the ages of some of these institutions that we are using. Binghamton State Hospital was an inebriate asylum in 1860.

Brooklyn State Hospital was known as the Kings County Asylum for the Insane in 1855.

Buffalo State Hospital was built in 1880.

Central Islip on Long Island we referred to as our modern institution and built strictly along fairly modern lines. That was built in 1896. Gowanda State Hospital was built in 1898. Hudson River State Hospital at Poughkeepsie was built in 1871; Kings Park Hospital in 1890; Manhattan State Hospital on Ward's Island in 1871.

The building that was burned in February of this year with the attendant loss of life was used for a home for immigrant girls as far back as 1855. Middletown State Hospital was built in 1874. Rochester State Hospital, known as the Monroe County Insane Asylum, was built as far back as 1864; St. Lawrence State Hospital in 1890. Willard State Hospital was built in 1869.

Utica State Hospital is the grandfather of them all. It was a hospital for the insane as far back as 1843.

Now, I am going to pass for a moment from the side of our duty on this question and I am going to deal with it from the standpoint of good business. I am going to deal with it just exactly the way the directors of a great corporation would deal with a question of this kind. I am going to treat it not from the standpoint of the Executive of the State but from the standpoint of the Chairman of the Board of Directors. This is what I would say to them if we were in session assembled, and we were dealing with this from the cold-blooded standpoint of what is good business, leaving out entirely the humanity, leaving entirely aside the State's obligation, and dealing with it from the cold, hard-hearted standpoint of what constitutes good business. Have you any idea what it costs for upkeep of these buildings? Why, it is enormous. What do you expect from a building built in 1845? Or even in 1865? The bill for upkeep year after year is entirely out of proportion to the value of the property, and no well-organized

business institution in the country would continue in its line of business property that cost them so much to maintain year in and year out.

Not only have we been lax in providing for new construction, but we haven't met the ordinary demands made from year to year for the preservation of the property we already own and have in operation. Let me read some figures to you that are astounding. For the last six years the State Hospital Commission has requested the Legislature to appropriate for permanent betterments and new construction in our civil hospitals only, that is, in fourteen hospitals, \$49,367,027.14. That has been requested. That was for betterment of water supply, for betterment of protection against fire, and for necessary improvements. What did the Legislature appropriate in those six years? Bear in mind they were asking for nearly fifty million dollars. They appropriated \$15,436,000. Now that means only one of two things. It either means that the Legislature has been grossly derelict in its obligation to these hospitals, or it means that the Commissioners probably ought to be in some of the institutions themselves.

The truth of the matter is that appropriations for betterments and construction of State hospitals have fallen into political argument. Now, let's be fair about it. Let us call a spade a spade. Here is the record of appropriations. In the two years preceding my advent in Albany, on the first of January 1919, for construction there was appropriated \$2,347,000. In my first term, 1919 and 1920, there was appropriated \$8,969,000; and in the two years following me, the appropriations fell down again to \$4,389,000.

Now, I state these figures for a specific purpose—and that is this: That you cannot get away from the politics unless you build the hospitals from the proceeds of bond money—because bond money does not count in the political economy record of any governor. If we were dependent for annual appropriations for good roads on any other than the bond issue method, you would never have them. If you had to reconstruct the Barge Canal from annual appropriations, you would never have the canal. You would get it 10 feet at a time and you couldn't get it any other way.

It is almost impossible for me to resist the temptation to speak about the political charge that is being made against me today of adding names to the payroll of the State. Some of my opponents say I added 511 people to the payroll of the State—and it has been a great source of pleasure and satisfaction to me in every political meeting to admit it. It is true. But at the same time it has also been a source of satisfaction to say that the 511 people whom they find on the State's payroll who were not there when I went to Albany on the 1st of January, are nurses and attendants in the State's hospitals. And we secured a large part of the 511 by making the positions more attractive to them in the way of salaries.

Now, it is a fundamental principle of economics that you get what you pay for. You don't get any more, and it is your business to see that you don't get any less. If anybody thinks he can secure

nurses and attendants to take proper care of these people at the price the State has been paying, he has another guess coming, because it cannot be done.

I remember Dr. Bernstein, who is superintendent of the Rome Custodial Asylum for Feeble-minded Boys, came down to see me. I was looking over his payroll and I said, "Doctor, just about what type of men are you able to secure for \$40.00 a month?" He looked around to see if there was anybody listening, and when he was sure that nobody was in the Executive Chamber but the two of us, he said, "Well, Governor, to tell you the real truth, they are just a little bit better than the inmates, and all we expect them to do is to keep the boys from fighting."

I have here a letter from Dr. Haviland, President of the Hospital Commission, written to me on the 20th of September in which he stated that the new salary schedule effective at the beginning of the State's fiscal year on the 1st of July last meant a net gain of 134 ward employees and 58 nurses. Now, let us make up our minds that we cannot get this service unless we pay for it. Economy is all right. Everybody talks about it. Everybody likes to hear it talked about. It sounds particularly good to a man or woman the day after they get the tax bill. But you have to look at the other side of the picture, that you cannot do the job unless you pay for it. It is no economy for the great State of New York to leave the hospitals in the condition in which they are today. If it was known in any other part of the country I'd sooner give anything I have than be obliged to hang my head in shame when it would be called to my attention.

Let's take it again from the standpoint of good business: The State of New York is supposed to house within all its hospitals its employees. That is the most economical way of dealing with them. Are we able to do it? Why, we are not. We have been obliged to take these employees and throw them upon the hospitality of the neighborhood where the hospital is, in order to have room for the patients. What has that resulted in? According to the letter sent me by Dr. Haviland on the 11th of October, we are paying \$400,000 a year—\$400,000 a year for what the Hospital Commission refers to as "Commutation." That means board and lodging for the employees of the State in buildings and cottages in the vicinity of these institutions simply because we haven't any room for them. And the Lord knows, the room we have to give to them is so uninviting that you can't expect any very high-class employee to come in and give his services to the State in view of the accommodations the State has to offer him. From the standpoint of business, \$400,000 is 4 per cent on \$6,000,000, and we are throwing it away. We are giving it to boarding houses, hotels, cottages, roadhouses, in the vicinity of the different State hospitals.

From the standpoint, again, of good business, what great corporation in this country pursues the policy of making permanent improvements out of its every-day revenue? The State hospitals constructed today have a life of at least a hundred years. These old-

fashioned wood and brick ones with a slate roof on top of them are approaching their hundredth anniversary. What about the building of today constructed of steel and concrete? It is safe to say it has a life at least of a hundred years.

If that be true, why should the taxpayers of today, stand the full cost of their construction? Why shouldn't some part of it be spread over the next generation and the one to follow that one? That is a good, practical business suggestion. What would become of this city if it had to pay for all of its great public improvements from the taxpayers of the year in which the indebtedness was incurred? How could you have \$300,000,000 worth of subways? \$30,000,000 worth of docks? \$25,000,000 worth of bridges—unless you were able to spread the cost of the permanent improvements over the generations that are to come.

Nothing is more stupid in the government of the State today than to construct permanent improvements out of the current revenues of a single year or of two years. We have been severely criticized for that in the Good Roads problem, and justly so. I answered that by saying, unless you build them from bonds you never would have gotten one hundred million dollars worth of connected State-improved highways.

Let us consider just for a moment what \$50,000,000 means. \$50,000,000 is a small amount of money in the State of New York. Put out at 25-year bonds, interest upon it can be paid, sinking fund can be accumulated to amortize it for one-twentieth of a cent a year on all of the real and personal property in the State of New York. Now that is the truth about it, \$50,000,000 sounds big. We are getting used to big figures these days. One mill, one-tenth of a cent assessed against all the real and personal property of the State raises \$8,000,000. This bond issue can be paid for and the interest paid on it from time to time for one-twentieth of one cent. The State is not heavily bonded for a State of its size and the magnitude of the enterprises in which it is necessarily engaged. After all, we owe in this State less than \$250,000,000. Compare that with the indebtedness of the City of New York. And the City of New York is just a unit of the State government. It is just one creature of the sovereignty itself, and its bonded indebtedness is in excess of a billion dollars. So that the creature is good for a billion and the sovereignty is at the point of \$250,000,000.

Of course, bear in mind that I would be the first man to caution slow work building up a wall of indebtedness around the State, but when we consider anything as important as this, something that must be done anyway, something that means better business principles, why, then, to find fault with a bond issue is really not in the interest of application of good business principles to government.

At the close of this part of my remarks I want to publicly—not in my individual capacity but as Governor of the State—to extend the thanks of the people of the State to the State Charities Aid Association. They certainly did get behind this with a strength and a

vigor that I don't think could be equalled by any other organized group in this or any other country.

I want also to thank the newspapers. They have elevated this question out of the realm of partisan discussion and taken it solely upon the merit of what we are trying to do. To all those who have given their aid I feel I should extend the gratitude of the people of the State, because there is no doubt about what will ultimately happen to this bond issue.

That closes all I want to say about better times so far as the wards of the State are concerned. But I have something to say about better times for all the people of the State and for those who are struggling in the State, and for those who come under our especial care, as far as we are able to extend help to them for the preservation of their health.

The first thing I want to speak about is Child Welfare. Many of the little bulletins I have received from BETTER TIMES show work for children on the front page. Nothing makes the same appeal that children do. We have been brought up to believe that and the hardest heart in the world must of necessity feel for the helpless child. If I thought I couldn't do it, I'd sooner die than go home tonight.

You are familiar with the Child Welfare statutes. You know exactly what the State sought to do when it changed its policy. I am in favor of the State itself subsidizing the community which takes care of orphan children, dollar for dollar whatever they are willing to appropriate. We pay the farmer for the tubercular cattle we kill, and we pay the farmer for the sheep that are killed by dogs. What do we give to the widowed mother for the care of the children? It is all right to leave it to the community in a city like New York which is bighearted and generous; but, without mentioning localities, I can say in a general way that they are not all like New York. They should be encouraged and they should be encouraged by the State itself.

I am looking forward to better times for women and children who are engaged in industry and who have to work in factories, and for that reason I have used up a good deal of my energy talking all over the State about the creation of wage boards to fix living wages for women and children in factories. There is no question about the soundness of it. Other States have adopted it with a great deal of success. Men fix wages by the power of their unions or organizations. You hire a plumber, a carpenter, a bricklayer, and before he enters upon his duties you know exactly what you have to pay him. But here we have a great army of unorganized people not entering industry as a life work, not able to enter industry because of the peculiar nature of the things they can do, not able to battle for themselves as individuals, and practically helpless. I hold the State should reach its strong arm into industry in this State, and by a fair, just, equitable process of reasoning figure out what should be the minimum wage in any particular locality in any particular industry that is required to keep a woman or girl in decent health and in decent comfort.

When I have advocated that theory I am charged with being in favor of paternalism. I am unable to see that. I am unable to see that anything along that line can possibly be construed as paternalism toward any group of persons. I take an entirely different point of view. I view it as a movement by the State for the preservation of the public health, because if you haven't got a healthy, vigorous womanhood you haven't very much to promise for the race. You might as well hang up the shades and quit.

There is nothing revolutionary about fixing by law the hours per week in factories for women. The State undertook this regulation some years ago. It is only a question today of whether or not the unorganized should reap the same benefits that are coming to those who are organized. The same argument that applies to the minimum wage applies with equal force to the eight-hour day.

I am looking forward to better times along the line of how far the State can go in the preservation of the public health. The three great functions of every government are the preservation of life, property, and public health. There is no question about that. It has never been denied.

It was certified to me in January of this year that large communities in this State were entirely without doctors. One particular community on the Canadian border showed village after village in which not a single physician resided, and many villages where a residing physician had reached the age where his usefulness was practically cut off.

Well, as an economic problem, we can see why that is possible. Why should the young student of medicine devote himself to a small village on the edge of the Adirondack Preserve, taking his chances with the climatic conditions there in winter, the difficulty of getting over the roads, as against the opportunities given to him in a great center of population such as we have here.

What is the duty of the State? The duty of the State is to make it worth while for the young physician to practice in the sections of the State so that there is no object, no inducement to offer to him that will take him away. Our great laboratories and clinics here are of inestimable worth to the young doctor practicing in the great metropolis. But the State offers nothing like that to the young physician. Yet the health of that community up there is just as much the concern of the State as the health of the people in a great center. At the last session of the Legislature we amended the Public Health Law and took the most forward-looking step that has yet been taken in this regard—a State subsidy toward establishing the rural health center—to give advice and help to physicians who desire to operate in such localities, and our Better Times association could do no better thing than to offer encouragement to these localities to the end that they may benefit by application to the State for some of these funds.

On the question of education, I am thinking of better times for the children on the farm. There rests upon the people of this State the very sacred obligation to give free education to all the children

in the State. It is not a matter of choice. It is a matter of duty and of sacred obligation. In Albany, within two weeks, the State Commissioner of Education, Dr. Graves had the following to say:

"The cause of the meager opportunities for education in the rural districts is the archaic system to which the rural regions in New York are still clinging."

Let us see here if this question of rural education is not something which concerns the people who live in the City of New York. Bear in mind that we are all fed and clothed from the land. And bear in mind that of the ten million people who live in this State, seven and a half million of them live in five cities. We have thirty-five cities altogether, but five cities contain seven and a half of the ten million population. What is going to happen if everybody goes to the city? What are we going to do about it?

Undoubtedly, one of the things that helps to drive men and women from the farm is the lack of proper educational facilities for children. What lies closer to a man's or woman's heart than the education of their children? And if a man finds he cannot get these facilities from his State because he happens to pursue a rural occupation in the State, he will try to find his way to a great city where that opportunity will be given to his children.

It is a matter of great concern to all the State. It is not a rural problem for the farmer and his wife to figure out for themselves in front of a log fire—but it is something for all of us right here in the heart of New York, to determine, whether the State is doing its full duty by the children on the farm by comparison with the children in the city. The State educational authorities say we are not. Let us give more attention to it.

I am looking forward to better times in the regulation by the State of automobile operation and the elimination of grade crossings. In 1921, 2700 people were killed in this State by automobiles and 36,300 people were seriously injured by automobiles. There is a problem. You cannot do away with the automobile. It has come to be necessary in business, and in fact, in every avenue of activity in the State. What are the real facts about this?

It is this: The State is assessing the owners of automobiles in this fiscal year to the tune of \$20,000,000.

That is what the State takes away from the people who own automobiles in license fees. \$20,000,000. What does the State do with it? It uses \$5,000,000 for the upkeep of country backroads where no automobiles, if any, run; and the other \$15,000,000 go right into the cash drawer for the current expenses of the State. Not a single dollar, not even a quarter, is used for the regulation of the traffic. The State is even without the information as to who is responsible for all these killings. There is no central bureau of information that can give you indication who is responsible for such killings. The former Comptroller of the State, Mr. Wendell, had this experience: His wife was killed on the corner of State and Eagle streets, and the chauffeur who killed her had killed two people

before that. This was found out by accident. And the State is absolutely helpless.

If you live down here in New York you cannot run an automobile without a license. And you must demonstrate you can run it before you get a license. But if perchance, you live in Yonkers you can run one without a license—and run it right into New York City. It is a matter that deserves careful consideration.

I would like to be backed up by the Better Times association. Of course, I will do my share.

Looking forward, in conclusion, to Better Times in housing for our people, it is a very great problem and up to this time it seems to be one of the greatest problems that any agency of the Government has ever attempted even to study.

We have devoted ourselves to the propagation of fish, and to the protection of the Adirondack black bear, and the deer and the elk, and the birds, and the forest itself. We have directed our attention against the pollution of our streams. But who thought about in with decent comfort. Housing is not a question alone of supplying the houses. It is supplying them of a character that makes home what it ought to be. And how can you expect good health and satisfied citizenship if home is not to them what they think it ought to be and what we think it ought to be.

We have created an agency known as the State Commission on Housing and Regional Planning to study the question of housing and regional planning so that there may be a State agency ready at least to produce, when necessary, the facts that have to do with that all-important question—and to that let us promise our assistance here tonight.

That sums up what I have to say about Better Times. I am looking forward to them in the State because I know that we will be able to conduct ourselves in such a way as to deserve them. The State of New York is the greatest in the Union. And the Union of States makes up the greatest country in the world. New York is an empire in itself in riches, in wealth, in the power of her great natural resources. Certainly, we owe it to somebody—we owe it to some Power that gave us this great position—that same Power which designed this even from the discovery of the country, that this was to be the market place, as it is today, of all the world. If we owe any debt of gratitude, we owe it to Divine Providence, to see that we in some small measure repay it by taking care of the poor, the sick, the distressed, and the afflicted, who were the objects of His special care during His time on earth.

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